

Chapter 431

(Senate Bill 901)

AN ACT concerning

**Environment – Packaging Materials and Paper Products – Producer
Responsibility Plans**

FOR the purpose of requiring certain producers of ~~packaging covered~~ materials, individually or as part of a producer responsibility organization, to submit a certain ~~packaging covered~~ materials producer responsibility plan to the Department of the Environment for review and approval on or before a certain date and in accordance with certain requirements or develop an alternative collection program; prohibiting, on or after a certain date, a producer of certain ~~packaging covered~~ materials from selling, offering for sale, distributing, or importing certain ~~packaging covered~~ materials unless the producer, individually or as part of a producer responsibility organization, has an approved producer responsibility plan on file with the Department; requiring a producer responsibility organization to pay certain costs to the Department; requiring a producer responsibility plan to be implemented within a certain amount of time after the Department approves the producer responsibility plan; altering the responsibilities of the producer responsibility advisory council; authorizing a ~~local government~~ service provider to request reimbursement from a certain producer that has an approved producer responsibility plan on file with the Department for certain costs in a certain manner; requiring a certain service provider to register with the Department for a certain purpose and in a certain manner; requiring the Department to develop a list of certain packaging materials on or before a certain date, in a certain manner, and subject to certain requirements; authorizing a certain producer to request that the Department exempt certain materials from a certain list; requiring the Office of Recycling in the Department to hire an independent contractor to conduct certain statewide recycling needs assessments; requiring the Department to coordinate the implementation of certain programs under certain circumstances and in a certain manner; and generally relating to producer responsibility for packaging ~~materials~~ and paper products.

BY repealing and reenacting, without amendments,

Article – Environment

Section 9–1702(a)

Annotated Code of Maryland

(2014 Replacement Volume and 2024 Supplement)

BY repealing and reenacting, with amendments,

Article – Environment

~~Section 9–1702(d), 9–1707(f), 9–2501, and 9–2503~~ Section 9–1702(d) and 9–1707(f); and 9–2501 through 9–2503 to be under the amended subtitle “Subtitle 25. Producer Responsibility for Packaging and Paper Products”

Annotated Code of Maryland

(2014 Replacement Volume and 2024 Supplement)

BY adding to

Article – Environment

Section 9–1702.2, ~~9–2502~~, and 9–2504 through ~~9–2510~~ 9–2512

Annotated Code of Maryland

(2014 Replacement Volume and 2024 Supplement)

~~BY repealing~~

~~Article – Environment~~

~~Section 9–2502~~

~~Annotated Code of Maryland~~

~~(2014 Replacement Volume and 2024 Supplement)~~

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Environment

9–1702.

(a) There is an Office of Recycling created within the Department.

(d) The Office shall:

(1) Assist the counties in developing an acceptable recycling plan required under § 9–1703 of this subtitle and § 9–505 of this title, including technical assistance to the local governments;

(2) Coordinate the efforts of the State to facilitate the implementation of the recycling goals at the county level;

(3) Review all recycling plans submitted as part of a county plan as required under § 9–505 of this title and advise the Secretary on the adequacy of the recycling plan;

(4) Administer the Statewide Electronics Recycling Program under Part IV of this subtitle;

(5) Promote the development of markets for recycled materials and recycled products in the State in accordance with § 9–1702.1 of this subtitle; [and]

(6) Review and approve plans and annual reports, including the paint stewardship assessment, submitted in accordance with a Paint Stewardship Program established under Part V of this subtitle; **AND**

(7) REVIEW AND APPROVE, IN CONSULTATION WITH THE PRODUCER RESPONSIBILITY ADVISORY COUNCIL ESTABLISHED UNDER § 9-2503 OF THIS TITLE, PRODUCER RESPONSIBILITY PLANS AND ANNUAL REPORTS SUBMITTED IN ACCORDANCE WITH SUBTITLE 25 OF THIS TITLE.

9-1702.2.

(A) ~~IN THIS SECTION, “ADVISORY COUNCIL” AND “PRODUCER” HAVE THE MEANINGS~~ SECTION, “ADVISORY COUNCIL” HAS THE MEANING STATED IN § 9-2501 OF THIS TITLE.

(B) (1) ON OR BEFORE JULY 30, 2034, AND AT LEAST ONCE EVERY 10 YEARS THEREAFTER, THE OFFICE SHALL HIRE AN INDEPENDENT CONSULTANT TO CONDUCT A STATEWIDE RECYCLING NEEDS ASSESSMENT TO INFORM THE PROVISION OF RECYCLING SERVICES IN THE STATE INCLUDING IMPLEMENTATION OF SUBTITLE 25 OF THIS TITLE.

(2) THE NEEDS ASSESSMENT SHALL INCLUDE:

(I) AN ANALYSIS OF THE STATE’S CURRENT SOLID WASTE STREAMS, INCLUDING:

1. SOLID WASTE GENERATED IN THE STATE BY LOCAL JURISDICTION, TYPE, AND MATERIAL;
2. DISPOSAL METHODS BY MATERIAL TYPE AND AMOUNT; AND
3. ASSOCIATED COSTS AND REVENUES FOR SOLID WASTE DISPOSAL PROGRAMS;

(II) AN ANALYSIS OF THE STATE’S CURRENT RECYCLING STREAMS, INCLUDING:

1. RECYCLABLE MATERIALS PROCESSED BY LOCAL JURISDICTION, TYPE, AND AMOUNT;
2. PROCESSING METHODS BY MATERIAL TYPE AND AMOUNT;
3. ASSOCIATED COSTS AND REVENUES FOR RECYCLING PROGRAMS, COLLECTION, AND TIPPING FEES; ~~AND~~

4. AN ESTIMATE OF THE AMOUNT OF RECYCLABLE MATERIALS THAT ARE NOT CURRENTLY BEING RECYCLED; AND

5. AN ESTIMATE OF THE AMOUNT OF REUSABLE PACKAGING THAT IS NOT CURRENTLY BEING REUSED;

(III) AN EVALUATION OF THE CURRENT INFRASTRUCTURE AND CAPACITY RELATED TO, NEED FOR, AND ASSOCIATED COSTS OF:

1. RECYCLING ACCESS AND AVAILABILITY;

2. COLLECTING AND HAULING RECYCLABLE, REUSABLE, OR COMPOSTABLE MATERIALS IN THE STATE;

3. PROCESSING RECYCLABLE OR COMPOSTABLE MATERIALS IN THE STATE;

4. TAKING ADVANTAGE OF FAVORABLE MARKET CONDITIONS OR OTHER OPPORTUNITIES FOR INCREASING RECYCLING, REUSE, OR ORGANICS RECYCLING IN THE STATE;

5. IN COORDINATION WITH LOCAL GOVERNMENTS, CONSUMER EDUCATION REGARDING RECYCLING, ORGANICS RECYCLING, REUSABLE PACKAGING, AND CONTAMINATION REDUCTION;

6. REUSE INFRASTRUCTURE; AND

7. ORGANICS RECYCLING INFRASTRUCTURE;

(IV) AN EVALUATION OF COMMINGLED RECYCLING PROCESSING FACILITY WORKER CONDITIONS, WAGES, AND BENEFITS;

(V) AN EVALUATION OF OPPORTUNITIES IN THE RECYCLING AND REUSE SYSTEM FOR WOMEN AND MINORITY INDIVIDUALS;

(VI) AN EVALUATION OF LOCAL GOVERNMENT REQUIREMENTS RELATED TO MULTIFAMILY AND COMMERCIAL RECYCLING SERVICES AND THEIR IMPLEMENTATION;

(VII) THE SUFFICIENCY OF RECYCLING AND REUSE EDUCATION PROGRAMS RELATIVE TO DESIRED EQUITY OUTCOMES;

(VIII) AN EVALUATION OF THE ECONOMIC OPPORTUNITIES IN THE STATE'S RECYCLING AND REUSE SYSTEM, INCLUDING:

1. STATE AND LOCAL REVENUE THAT MAY BE CONSIDERED LOST BECAUSE RECYCLABLE MATERIALS ARE NOT BEING RECYCLED;

2. CURRENT JOBS ASSOCIATED WITH THE SOLID WASTE, REUSE, AND RECYCLING INDUSTRIES;

3. OPPORTUNITIES TO INCREASE EMPLOYMENT IN THE RECYCLING INDUSTRY BY MATERIAL TYPE;

4. BUSINESS OPPORTUNITIES ASSOCIATED WITH RECYCLING OR REUSABLE PACKAGING;

5. BARRIERS TO INCREASING THE USE OF RECYCLABLE MATERIALS AS FEEDSTOCK FOR PRINCIPAL PROCESSORS AND MANUFACTURERS AND MEANS OF ELIMINATING THOSE BARRIERS; AND

6. RECOMMENDATIONS FOR INCENTIVES TO STIMULATE JOB GROWTH AND BUSINESS OPPORTUNITIES IN THE STATE'S RECYCLING ~~INDUSTRY~~ AND REUSABLE PACKAGING INDUSTRIES;

(IX) RECOMMENDATIONS FOR IMPROVING EQUITY AND EQUITABLE OUTCOMES FOR UNDERSERVED POPULATIONS IN THE STATE'S RECYCLING SYSTEM;

(X) AN ANALYSIS OF THE COSTS AND BENEFITS OF IMPLEMENTING AN EXTENDED PRODUCER RESPONSIBILITY PROGRAM, INCLUDING TO:

1. LOCAL GOVERNMENTS;

2. WASTE PRODUCERS;

3. RESIDENTS; AND

4. WASTE MANAGEMENT COMPANIES;

(XI) AN ANALYSIS OF THE POTENTIAL ENVIRONMENTAL IMPACT OF AN EXTENDED PRODUCER RESPONSIBILITY PROGRAM, INCLUDING THROUGH:

1. INCREASED RECYCLING;

2. RESOURCE RECOVERY;

3. WASTE REDUCTION; AND**4. REDUCED ENVIRONMENTAL DAMAGE; AND**

(XII) RECOMMENDATIONS ON THE BEST PRACTICES TO FOLLOW FROM SUCCESSFUL EXTENDED PRODUCER RESPONSIBILITY PROGRAMS IN OTHER STATES AND COUNTRIES.

(C) THE OFFICE SHALL REPORT ON THE RESULTS OF EACH ASSESSMENT CONDUCTED UNDER THIS SECTION TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(D) IN CONDUCTING AN ASSESSMENT REQUIRED UNDER THIS SECTION, THE INDEPENDENT CONSULTANT SHALL CONSULT WITH PRODUCER RESPONSIBILITY ORGANIZATIONS, THE PRODUCER RESPONSIBILITY ADVISORY COUNCIL ESTABLISHED UNDER § 9-2503 OF THIS TITLE, APPROPRIATE LOCAL GOVERNMENTAL ENTITIES, AND REGIONAL SOLID WASTE ORGANIZATIONS IN THE STATE.

(E) ~~(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, THE~~ THE OFFICE SHALL ESTABLISH AND COLLECT A FEE TO BE PAID BY PRODUCER RESPONSIBILITY ORGANIZATIONS TO COVER THE COSTS ASSOCIATED WITH CONDUCTING AN:

(1) THE ASSESSMENT REQUIRED UNDER CHAPTER 465 OF THE ACTS OF THE GENERAL ASSEMBLY OF 2023; AND

(2) EACH SUBSEQUENT ASSESSMENT REQUIRED UNDER THIS SECTION.

~~(2) BEFORE ESTABLISHING AND COLLECTING A FEE UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE OFFICE SHALL:~~

~~(i) PUBLISH A PROPOSED FEE ON ITS WEBSITE; AND~~

~~(ii) ALLOW 90 CALENDAR DAYS FOR PUBLIC COMMENT.~~

9-1707.

(f) (1) There is a State Recycling Trust Fund.

(2) The Fund shall consist of:

(i) The newsprint recycling incentive fee;

(ii) The telephone directory recycling incentive fee collected under § 9–1709 of this subtitle;

(iii) The covered electronic device manufacturer registration fee collected under § 9–1728 of this subtitle;

(iv) The Paint Stewardship Program plan and annual report review fees collected under § 9–1733(b) and (h) of this subtitle;

(v) ANY FEES COLLECTED FROM PRODUCER RESPONSIBILITY ORGANIZATIONS UNDER § 9–1702.2 OF THIS SUBTITLE OR SUBTITLE 25 OF THIS TITLE;

[(v)] (VI) All fines and penalties collected under this subtitle AND § ~~9–2510~~ § 9–2512 OF THIS TITLE;

[(vi)] (VII) Money appropriated in the State budget to the Fund; and

[(vii)] (VIII) Any other money from any other source accepted for the benefit of the Fund.

(3) The Secretary shall administer the Fund.

(4) The Treasurer shall hold the Fund separately and the Comptroller shall account for the Fund.

(5) At the end of each fiscal year, any unspent or unencumbered balance in the Fund that exceeds \$2,000,000 shall revert to the General Fund of the State in accordance with § 7–302 of the State Finance and Procurement Article.

(6) In accordance with the State budget, the Fund shall be used only:

(i) To provide grants to the counties to be used by the counties to develop and implement local recycling plans;

(ii) To provide grants to counties that have addressed methods for the separate collection and recycling of covered electronic devices in accordance with § 9–1703(c)(1) of this subtitle;

(iii) To provide grants to municipalities to be used by the municipalities to implement local covered electronic device recycling programs;

(iv) To cover the costs of the Paint Stewardship Program plan review under § 9–1733(b) of this subtitle, the annual report review under § 9–1733(h) of this subtitle, and associated costs for Program compliance oversight; [and]

(V) IN ACCORDANCE WITH PARAGRAPH (7) OF THIS SUBSECTION, TO COVER THE COSTS OF A STATEWIDE RECYCLING NEEDS ASSESSMENT CONDUCTED UNDER § 9-1702.2 OF THIS SUBTITLE;

(VI) IN ACCORDANCE WITH PARAGRAPH (7) OF THIS SUBSECTION, TO COVER THE COSTS OF PRODUCER RESPONSIBILITY PLAN REVIEW, OVERSIGHT, AND ENFORCEMENT UNDER SUBTITLE 25 OF THIS TITLE; AND

[(v)] (VII) To carry out the purposes of the land management administration.

(7) (I) THERE IS A SEPARATE ACCOUNT WITHIN THE FUND.

(II) THE SEPARATE ACCOUNT SHALL CONSIST OF:

1. ANY FEES COLLECTED FROM PRODUCER RESPONSIBILITY ORGANIZATIONS UNDER § 9-1702.2 OF THIS SUBTITLE OR SUBTITLE 25 OF THIS TITLE; AND

2. ALL FINES AND PENALTIES COLLECTED UNDER § ~~9-2510~~ § 9-2512 OF THIS TITLE.

(III) THE SEPARATE ACCOUNT SHALL BE USED ONLY FOR THE COSTS OF STATEWIDE RECYCLING NEEDS ASSESSMENTS CONDUCTED UNDER § 9-1702.2 OF THIS SUBTITLE AND PRODUCER RESPONSIBILITY PLAN REVIEW, OVERSIGHT, AND ENFORCEMENT UNDER SUBTITLE 25 OF THIS TITLE.

[(7)] (8) (i) The Treasurer shall invest the money in the Fund in the same manner as other State money may be invested.

(ii) Any investment earnings of the Fund shall be credited to the General Fund of the State.

Subtitle 25. Producer Responsibility for Packaging [Materials] AND PAPER PRODUCTS.

9-2501.

(a) In this subtitle the following words have the meanings indicated.

(b) “Advisory council” means the producer responsibility advisory council established under § 9-2503 of this subtitle.

(c) (1) “BEVERAGE CONTAINER” MEANS A PREPACKAGED BEVERAGE CONTAINER:

~~(1)~~ (I) MADE OF ANY MATERIAL, INCLUDING GLASS, PLASTIC, METAL, OR MULTIMATERIALS;

~~(2)~~ (II) IN ANY FORM, INCLUDING A BOTTLE, CAN, CARTON, OR POUCH; AND

~~(3)~~ (III) THE VOLUME OF WHICH IS NOT MORE THAN 5 LITERS.

(2) “BEVERAGE CONTAINER” DOES NOT INCLUDE A PREPACKAGED BEVERAGE CONTAINER THAT IS COVERED UNDER A BEVERAGE CONTAINER DEPOSIT RETURN PROGRAM IN THE STATE.

(D) “BRAND OWNER” MEANS A PERSON THAT OWNS OR LICENSES A BRAND OR THAT OTHERWISE HAS RIGHTS TO MARKET A PRODUCT UNDER THE BRAND, WHETHER OR NOT THE BRAND’S TRADEMARK IS REGISTERED.

(E) “COMPOSTING” AND “COMPOSTING FACILITY” HAVE THE MEANINGS STATED IN § 9-1701 OF THIS TITLE.

(F) “COVERED ENTITY” MEANS A PERSON OR LOCATION THAT RECEIVES COVERED SERVICES FOR COVERED MATERIALS IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SUBTITLE, INCLUDING:

(1) A SINGLE-FAMILY RESIDENCE;

(2) A MULTIFAMILY RESIDENCE;

(3) A PUBLIC OR NONPUBLIC KINDERGARTEN, ELEMENTARY, OR SECONDARY SCHOOL;

(4) A CHILD CARE CENTER, AS DEFINED IN § 9.5-401 OF THE EDUCATION ARTICLE; AND

(5) A PUBLIC BUILDING OWNED OR OPERATED BY THE STATE OR A LOCAL GOVERNMENT.

(G) (1) “COVERED MATERIALS” MEANS PACKAGING AND PAPER PRODUCTS SOLD, OFFERED FOR SALE, IMPORTED, OR DISTRIBUTED IN THE STATE.

(2) “COVERED MATERIALS” DOES NOT INCLUDE EXEMPT MATERIALS.

(H) “COVERED MATERIAL TYPE” MEANS A SINGULAR AND SPECIFIC TYPE OF COVERED MATERIAL, SUCH AS PAPER, PLASTIC, METAL, OR GLASS, THAT:

(1) CAN BE CATEGORIZED BASED ON DISTINGUISHING CHEMICAL OR PHYSICAL PROPERTIES, INCLUDING PROPERTIES THAT ALLOW THE MATERIAL TYPE TO BE AGGREGATED INTO A DISCRETE COMMODITY CATEGORY FOR PURPOSES OF REUSE, RECYCLING, OR COMPOSTING; AND

(2) IS BASED ON SIMILAR USES IN THE FORM OF A PRODUCT OR PACKAGE.

(I) (1) “COVERED SERVICES” MEANS:

(i) COLLECTING, TRANSFERRING, TRANSPORTING, SORTING, PROCESSING, RECOVERING, PREPARING, OR OTHERWISE MANAGING COVERED MATERIALS FOR PURPOSES OF WASTE REDUCTION, REUSE, RECYCLING, OR COMPOSTING; AND

(ii) PUBLIC EDUCATION AND OUTREACH ACTIVITIES RELATED TO THE ACTIVITIES DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(2) “COVERED SERVICES” DOES NOT INCLUDE DISPOSAL OF COVERED MATERIALS.

(J) “DE MINIMIS PRODUCER” MEANS A PERSON THAT IN THEIR MOST RECENT FISCAL YEAR:

(1) INTRODUCED LESS THAN 1 TON OF COVERED MATERIAL INTO THE STATE; OR

(2) EARNED GLOBAL GROSS REVENUES OF LESS THAN \$2,000,000.

(K) “ENVIRONMENTAL IMPACT” MEANS THE IMPACT OF A COVERED MATERIAL ON HUMAN HEALTH AND THE ENVIRONMENT, BEGINNING WITH THE EXTRACTION AND PROCESSING OF THE RAW MATERIALS THAT COMPOSE THE COVERED MATERIAL THROUGH THE MANUFACTURING, DISTRIBUTION, USE, RECOVERY FOR REUSE, RECYCLING OR COMPOSTING, AND FINAL DISPOSAL OF THE COVERED MATERIAL.

(L) “EXEMPT MATERIAL” MEANS A MATERIAL, OR ANY PORTION OF A MATERIAL, THAT IS:

(1) PACKAGING FOR INFANT FORMULA, AS DEFINED IN 21 U.S.C. § 321(Z);

(2) PACKAGING FOR MEDICAL FOOD, AS DEFINED IN 21 U.S.C. § 360EE(B)(3);

(3) PACKAGING FOR A FORTIFIED ORAL NUTRITIONAL SUPPLEMENT, OR FOOD WHICH IS FORMULATED TO BE CONSUMED OR ADMINISTERED ENTERALLY FOR INDIVIDUALS WHO ARE UNABLE TO CONSUME NUTRITION ORALLY, USED BY INDIVIDUALS WHO REQUIRE SUPPLEMENTAL OR SOLE SOURCE NUTRITION TO MEET NUTRITIONAL OR SPECIAL DIETARY NEEDS DIRECTLY RELATED TO THE FOLLOWING CONDITIONS AS DEFINED BY THE INTERNATIONAL CLASSIFICATION OF DISEASES, TENTH REVISION:

(I) CANCER;

(II) CHRONIC KIDNEY DISEASE;

(III) DIABETES;

(IV) MALNUTRITION; OR

(V) FAILURE TO THRIVE;

(4) PACKAGING FOR A PRODUCT REGULATED AS A DRUG OR MEDICAL DEVICE BY THE U.S. FOOD AND DRUG ADMINISTRATION, INCLUDING ASSOCIATED COMPONENTS AND CONSUMABLE MEDICAL EQUIPMENT;

(5) PACKAGING FOR MEDICAL EQUIPMENT OR A PRODUCT USED IN MEDICAL SETTINGS THAT IS REGULATED BY THE U.S. FOOD AND DRUG ADMINISTRATION, INCLUDING ASSOCIATED COMPONENTS AND CONSUMABLE MEDICAL EQUIPMENT;

(6) DRUGS, BIOLOGICAL PRODUCTS, PARASITICIDES, MEDICAL DEVICES, OR IN VITRO DIAGNOSTICS THAT ARE USED TO TREAT, OR THAT ARE ADMINISTERED TO, ANIMALS AND ARE REGULATED BY:

(I) THE U.S. FOOD AND DRUG ADMINISTRATION UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT; OR

(II) THE U.S. DEPARTMENT OF AGRICULTURE UNDER THE FEDERAL VIRUS-SERUM-TOXIN ACT;

(7) PACKAGING FOR PRODUCTS REGULATED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY UNDER THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT;

(8) PACKAGING USED TO CONTAIN LIQUEFIED PETROLEUM GAS AND DESIGNED TO BE REFILLED;

(9) NEWSPRINT SUBJECT TO § 9-1707 OF THIS TITLE;

(10) A PAPER PRODUCT USED FOR A MAGAZINE'S PRINT PUBLICATION THAT HAS A CIRCULATION OF LESS THAN 95,000 AND THAT PRIMARILY INCLUDES CONTENT DERIVED FROM PRIMARY SOURCES RELATED TO NEWS AND CURRENT EVENTS;

(11) PACKAGING USED TO CONTAIN HAZARDOUS OR FLAMMABLE PRODUCTS REGULATED UNDER THE 2012 FEDERAL OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION HAZARD COMMUNICATION STANDARD THAT PREVENT THE PACKAGING FROM BEING WASTE REDUCED OR MADE REUSABLE, RECYCLABLE, OR COMPOSTABLE, AS DETERMINED BY THE DEPARTMENT;

(12) PACKAGING ~~COLLECTED AND PROPERLY MANAGED THROUGH~~ FOR PRODUCTS SUBJECT TO THE PAINT STEWARDSHIP PROGRAM UNDER SUBTITLE 17, PART V OF THIS TITLE; ~~OR~~

(13) MATERIAL THAT A PRODUCER DISTRIBUTES TO ANOTHER PRODUCER THAT IS:

(I) SUBSEQUENTLY USED TO CONTAIN A PRODUCT, AND THE PRODUCT IS DISTRIBUTED TO A COMMERCIAL BUSINESS OR ENTITY; AND

(II) NOT INTRODUCED TO A PERSON OTHER THAN THE COMMERCIAL OR BUSINESS ENTITY THAT FIRST RECEIVED THE PRODUCT; ~~OR~~

(14) PACKAGING USED FOR THE LONG-TERM PROTECTION OR STORAGE OF A PRODUCT THAT HAS A LIFESPAN OF NOT LESS THAN 5 YEARS, AS DETERMINED BY THE DEPARTMENT.

~~(D)~~ (M) "Local government" means:

- (1) A county; or
- (2) A municipality.

~~[(d)] (E)~~ "~~Organics recycling~~" ~~has the meaning stated in § 9-1701 of this title.~~

~~(F) "ORGANICS RECYCLING FACILITY" HAS THE MEANING STATED IN § 9-1701 OF THIS TITLE.~~

~~(G) "PACKAGING MATERIAL WASTE" MEANS THE PERCENTAGE OF THE TOTAL WEIGHT OF PACKAGING MATERIALS SOLD OR DISTRIBUTED IN THE STATE THAT ARE NOT RECYCLED, REUSED, OR COMPOSTED.~~

~~[(e)]~~ ~~(H)~~ (N) (1) "Packaging materials" ~~means, regardless of recyclability, any part of a package or container, including material that is used for the containment, protection, handling, delivery, and presentation of a product~~ MEANS A MATERIAL, A SUBSTANCE, OR AN OBJECT THAT IS USED TO PROTECT, CONTAIN, TRANSPORT, SERVE, OR FACILITATE THE DELIVERY OF A PRODUCT THAT IS SOLD OR SUPPLIED WITH THE PRODUCT TO THE CONSUMER FOR PERSONAL, NONCOMMERCIAL USE AND that is sold, offered for sale, imported, or distributed in the State.

(2) "Packaging materials" includes:

- (i) Primary, secondary, and tertiary packaging intended for the consumer market;
- (ii) Service packaging designed and intended to be filled at the point of sale, including:
 - 1. Carry-out bags;
 - 2. Bulk goods bags; and
 - 3. Take-out and home delivery food service packaging; and
- (iii) Beverage containers.

~~(3) "Packaging materials" does not include:~~

- ~~(i) Any part of a package or container that is sold or supplied in connection with:~~
 - ~~1. A pesticide product regulated by the Federal Insecticide, Fungicide, and Rodenticide Act under 7 U.S.C. § 136 et seq. or any other applicable federal law, rule, or regulation;~~
 - ~~2. A federally regulated drug, medical device, biologic, diagnostic, or dietary supplement including items intended for animals; or~~

~~3. A medical product that is required to be sterile or enclosed in packaging with tamper-resistant seals to protect public health, including medical products intended for animals; or~~

~~(ii) Liquefied petroleum gas containers that are designed to be refilled.~~

(O) (1) “PAPER PRODUCTS” MEANS PRODUCTS MADE PRIMARILY FROM WOOD PULP OR OTHER CELLULOSIC FIBERS.

(2) “PAPER PRODUCTS” DOES NOT INCLUDE:

(I) BOUND BOOKS; OR

(II) PRODUCTS THAT ARE NOT ACCEPTED BY MATERIALS RECYCLING FACILITIES OR COMPOSTING FACILITIES BECAUSE OF THE UNSAFE OR UNSANITARY NATURE OF THE PRODUCTS.

[(f)] ~~(P)~~ (1) “Producer” means a person that THE FOLLOWING PERSON, AS APPLICABLE, THAT IS RESPONSIBLE FOR COMPLIANCE WITH A PRODUCER RESPONSIBILITY PLAN UNDER THIS SUBTITLE:

~~(i) With respect to packaging materials used to directly protect or contain a product sold, offered for sale, or distributed in the State:~~

~~1. A. Has legal ownership of the brand of the product under which the product is sold; or~~

~~B. Is the manufacturer of the product, if the product is sold in packaging materials that lack identification of the brand;~~

~~2. Is the licensee of the brand or trademark under which the product is sold, whether or not the trademark is registered in the State, if the product is manufactured by a person other than the brand owners; or~~

~~3. Is the person that imports the product into the United States for use in a commercial enterprise that sells, offers for sale, or distributes the item in the State, if there is no person described in items 1 and 2 of this item~~ **FOR ITEMS SOLD IN OR WITH PACKAGING AT A PHYSICAL RETAIL LOCATION IN THE STATE:**

1. IF THE ITEM IS SOLD IN OR WITH PACKAGING UNDER THE BRAND OF THE ITEM MANUFACTURER OR IS SOLD IN PACKAGING WITHOUT BRAND IDENTIFICATION, THE PRODUCER IS THE ITEM MANUFACTURER;

2. IF THERE IS NO PERSON DESCRIBED IN ITEM 1 OF THIS ITEM, THE PRODUCER IS THE PERSON THAT IS LICENSED TO MANUFACTURE AND SELL OR OFFER FOR SALE TO CONSUMERS IN THE STATE AN ITEM WITH PACKAGING UNDER THE BRAND OR TRADEMARK OF ANOTHER MANUFACTURER OR PERSON;

3. IF THERE IS NO PERSON DESCRIBED IN ITEMS 1 AND 2 OF THIS ITEM, THE PRODUCER IS THE BRAND OWNER OF THE ITEM;

4. IF THERE IS NO PERSON DESCRIBED IN ITEMS 1 THROUGH 3 OF THIS ITEM WITHIN THE UNITED STATES, THE PRODUCER IS THE PERSON THAT IMPORTS THE PRODUCT INTO THE UNITED STATES FOR USE IN A COMMERCIAL ENTERPRISE THAT SELLS, OFFERS FOR SALE, OR DISTRIBUTES THE ITEM IN THE STATE; OR

5. IF THERE IS NO PERSON DESCRIBED IN ITEMS 1 THROUGH 4 OF THIS ITEM, THE PRODUCER IS THE PERSON THAT FIRST DISTRIBUTES THE ITEM IN OR INTO THE STATE; and

(ii) ~~With respect to packaging materials used to ship a product to a consumer in the State, is the person that packages and ships the product~~ FOR ITEMS SOLD OR DISTRIBUTED IN PACKAGING IN OR INTO THE STATE VIA E-COMMERCE, REMOTE SALE, OR ONLINE DISTRIBUTION:

1. FOR PACKAGING USED DIRECTLY TO PROTECT OR CONTAIN THE ITEM, THE PRODUCER OF THE PACKAGING IS A PRODUCER UNDER ITEM (I) OF THIS PARAGRAPH; AND

2. FOR PACKAGING USED TO SHIP THE ITEM TO A CONSUMER, THE PRODUCER OF THE PACKAGING IS THE PERSON THAT PACKAGES THE ITEM TO BE SHIPPED TO THE CONSUMER;

(III) FOR PACKAGING THAT IS NOT DESCRIBED IN ITEMS (I) AND (II) OF THIS PARAGRAPH, THE PRODUCER OF THE PACKAGING IS THE PERSON THAT FIRST DISTRIBUTES THE ITEM IN OR INTO THE STATE;

(IV) FOR PAPER PRODUCTS THAT ARE MAGAZINES, CATALOGS, TELEPHONE DIRECTORIES, OR SIMILAR PUBLICATIONS, THE PRODUCER IS THE PUBLISHER;

(V) FOR A PAPER PRODUCT NOT DESCRIBED IN ITEM (IV) OF THIS PARAGRAPH;

1. IF THE PAPER PRODUCT IS SOLD UNDER THE MANUFACTURER’S OWN BRAND, THE PRODUCER IS THE PERSON THAT MANUFACTURES THE PAPER PRODUCT;

2. IF THERE IS NO PERSON DESCRIBED IN ITEM 1 OF THIS ITEM, THE PRODUCER IS THE PERSON THAT IS THE OWNER OR LICENSEE OF A BRAND OR TRADEMARK UNDER WHICH THE PAPER PRODUCT IS USED IN A COMMERCIAL ENTERPRISE, SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN THE STATE, WHETHER OR NOT THE TRADEMARK IS REGISTERED IN THE STATE;

3. IF THERE IS NO PERSON DESCRIBED IN ITEMS 1 AND 2 OF THIS ITEM, THE PRODUCER IS THE BRAND OWNER OF THE PAPER PRODUCT; OR

4. IF THERE IS NO PERSON DESCRIBED IN ITEMS 1 THROUGH 3 OF THIS ITEM WITHIN THE UNITED STATES, THE PRODUCER IS THE PERSON THAT IMPORTS THE PAPER PRODUCT INTO THE UNITED STATES FOR USE IN A COMMERCIAL ENTERPRISE THAT SELLS, OFFERS FOR SALE, OR DISTRIBUTES THE PAPER PRODUCT IN THE STATE; AND

(IV) FOR A PRODUCER IDENTIFIED IN ITEMS (I) THROUGH (III) OF THIS PARAGRAPH THAT IS A BUSINESS OPERATED WHOLLY OR IN PART AS A FRANCHISE, THE PRODUCER OF THE PACKAGING IS THE FRANCHISOR IF THE FRANCHISOR HAS FRANCHISEES THAT HAVE A COMMERCIAL PRESENCE IN THE STATE.

(2) “Producer” does not include:

(i) ~~A local government~~ STATE, FEDERAL OR STATE AGENCY, A POLITICAL SUBDIVISION, OR OTHER GOVERNMENTAL UNIT;

(ii) ~~A nonprofit~~ REGISTERED 501(C)(3) charitable organization OR 501(C)(4) SOCIAL WELFARE ORGANIZATION;

(iii) ~~An entity that manufactures a drug or device authorized for sale by the U.S. Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act~~ A DE MINIMIS PRODUCER;

(iv) ~~An entity that generated less than [\$5,000,000] \$1,000,000 in gross revenue during the immediately preceding calendar year~~ A MILL THAT USES ANY VIRGIN WOOD FIBER IN THE PRODUCTS IT PRODUCES;

(v) ~~An entity that sold, offered for sale, or distributed for sale in the State during the immediately preceding calendar year less than 1 metric ton of packaging materials~~ A PAPER MILL THAT PRODUCES CONTAINER BOARD DERIVED FROM 100%

POSTCONSUMER RECYCLED CONTENT AND NONPOSTCONSUMER RECYCLED CONTENT;

(vi) ~~1.~~ An entity that owns or operates a restaurant, food cart, or similar establishment that:

~~A. 1.~~ Is headquartered in the State; ~~and~~

~~B. 2.~~ Primarily sells to members of the public food that is generally intended to be consumed immediately and without the need for further preparation, either on or off the premises; and

~~2. 3.~~ Is not a producer of food serviceware;

(vii) An entity that owns or operates a single retail sales establishment that:

1. Has no online sales; and

2. Is not supplied or operated as part of a franchise or a chain; or

(viii) 1. An entity that is licensed under Title 2 of the Alcoholic Beverages and Cannabis Article; and

2. Generated less than \$10,000,000 in gross revenue during the immediately preceding calendar year; or

(ix) ~~An entity~~ **A PRODUCER UNDER PARAGRAPH (1) OF THIS SUBSECTION** that has executed an agreement with another entity, under which the other entity has agreed to assume responsibility **BY WRITTEN CERTIFICATION** under a producer responsibility program for any packaging materials attributable to the first entity.

[(g)] ~~(H)~~ **(Q)** “Producer responsibility organization” means a nonprofit organization that is:

(1) Exempt from taxation under § 501(c)(3) of the Internal Revenue Code; and

(2) Created by a group of producers to [represent the interests of producers under] **IMPLEMENT A PRODUCER RESPONSIBILITY PLAN IN ACCORDANCE WITH** this subtitle.

~~(K)~~ **(R)** “**PRODUCER RESPONSIBILITY PLAN**” MEANS A ~~PACKAGING COVERED~~ **MATERIALS PRODUCER RESPONSIBILITY PLAN SUBMITTED TO THE**

DEPARTMENT BY A PRODUCER OR PRODUCER RESPONSIBILITY ORGANIZATION IN ACCORDANCE WITH § 9-2505 OF THIS SUBTITLE.

(S) (1) “RECYCLING” MEANS THE PROCESS OF COLLECTING, SORTING, CLEANSING, TREATING, AND CONSTITUTING MATERIALS THAT WOULD OTHERWISE BE DISPOSED OF AND RETURNING THEM TO OR MAINTAINING THEM WITH THE ECONOMIC MAINSTREAM IN THE FORM OF RECOVERED MATERIAL FOR NEW, REUSED, OR RECONSTITUTED PRODUCTS THAT MEET THE QUALITY STANDARDS NECESSARY TO BE USED IN THE MARKETPLACE.

(2) “RECYCLING” DOES NOT INCLUDE:

(I) LANDFILLING;

(II) COMBUSTION;

(III) INCINERATION;

(IV) ENERGY GENERATION;

(V) FUEL PRODUCTION; OR

(VI) ALTERNATIVE DAILY COVER OR OTHER FORMS OF USE OR DISPOSAL WITHIN THE FOOTPRINT OF A LANDFILL.

(T) “RECYCLED COVERED MATERIAL” MEANS COVERED MATERIAL THAT IS SENT TO A RESPONSIBLE END MARKET.

(U) “RECYCLING RATE” MEANS THE AMOUNT OF RECYCLABLE COVERED MATERIAL, IN AGGREGATE OR BY INDIVIDUAL COVERED MATERIAL TYPE, RECYCLED IN A CALENDAR YEAR DIVIDED BY THE TOTAL AMOUNT OF RECYCLABLE COVERED MATERIALS SOLD OR DISTRIBUTED INTO THE STATE BY THE RELEVANT UNIT OF MEASUREMENT.

(V) “REFILL” MEANS THE CONTINUED USE OF A COVERED MATERIAL BY A CONSUMER THROUGH A SYSTEM THAT IS:

(1) INTENTIONALLY DESIGNED AND MARKETING FOR REPEATED FILLING OF A COVERED MATERIAL TO REDUCE DEMAND FOR NEW PRODUCTION OF THE COVERED MATERIAL;

(2) SUPPORTED BY ADEQUATE LOGISTICS AND INFRASTRUCTURE TO PROVIDE CONVENIENT ACCESS FOR CONSUMERS; AND

(3) COMPLIANT WITH APPLICABLE FEDERAL, STATE, AND LOCAL STATUTES, RULES, ORDINANCES, AND OTHER LAWS GOVERNING HEALTH AND SAFETY.

(W) “RESPONSIBLE END MARKET” MEANS A MATERIAL MARKET IN WHICH THE RECYCLING AND RECOVERY OF MATERIALS OR THE DISPOSAL OF CONTAMINANTS IS CONDUCTED IN A WAY THAT:

(1) BENEFITS THE ENVIRONMENT; AND

(2) MINIMIZES RISKS TO PUBLIC HEALTH AND WORKER HEALTH AND SAFETY.

(X) “RETURN RATE” MEANS THE AMOUNT OF REUSABLE COVERED MATERIAL, IN AGGREGATE OR BY INDIVIDUAL COVERED MATERIALS TYPE, COLLECTED FOR REUSE BY A PRODUCER OR SERVICE PROVIDER IN A CALENDAR YEAR, DIVIDED BY THE TOTAL AMOUNT OF REUSABLE COVERED MATERIALS SOLD OR DISTRIBUTED INTO THE STATE BY THE RELEVANT UNIT OF MEASUREMENT.

(Y) “REUSABLE” MEANS BEING CAPABLE OF REUSE.

(Z) “REUSE” MEANS THE RETURN OF A COVERED MATERIAL TO THE MARKETPLACE AND THE CONTINUED USE OF THE COVERED MATERIAL BY A PRODUCER OR SERVICE PROVIDER WHEN THE COVERED MATERIAL IS:

(1) INTENTIONALLY DESIGNED AND MARKETING TO BE USED MULTIPLE TIMES FOR ITS ORIGINAL INTENDED PURPOSE WITHOUT A CHANGE IN FORM;

(2) DESIGNED FOR DURABILITY AND MAINTENANCE TO EXTEND ITS USEFUL LIFE AND REDUCE DEMAND FOR NEW PRODUCTION OF THE COVERED MATERIAL;

(3) SUPPORTED BY ADEQUATE LOGISTICS AND INFRASTRUCTURE AT A RETAIL LOCATION, BY A SERVICE PROVIDER, OR ON BEHALF OF OR BY A PRODUCER, THAT PROVIDES CONVENIENT ACCESS FOR CONSUMERS; AND

(4) COMPLIANT WITH APPLICABLE FEDERAL, STATE, AND LOCAL STATUTES, RULES, ORDINANCES, AND OTHER LAWS GOVERNING HEALTH AND SAFETY.

(AA) “REUSE RATE” MEANS THE SHARE OF UNITS OF A REUSABLE COVERED MATERIAL SOLD OR DISTRIBUTED INTO THE STATE IN A CALENDAR YEAR THAT ARE

DEMONSTRATED AND DEEMED REUSABLE IN ACCORDANCE WITH AN APPROVED PRODUCER RESPONSIBILITY PLAN.

(BB) (1) “SERVICE PROVIDER” MEANS AN ENTITY THAT PROVIDES COVERED SERVICES FOR COVERED MATERIALS.

(2) “SERVICE PROVIDER” INCLUDES A LOCAL GOVERNMENT THAT PROVIDES, CONTRACTS FOR, OR OTHERWISE ARRANGES WITH ANOTHER PARTY TO PROVIDE COVERED SERVICES FOR COVERED MATERIALS WITHIN ITS JURISDICTION REGARDLESS OF WHETHER THE LOCAL GOVERNMENT PROVIDED, CONTRACTED FOR, OR OTHERWISE ARRANGED FOR SIMILAR SERVICES BEFORE THE APPROVAL OF THE APPLICABLE PRODUCER RESPONSIBILITY PLAN.

~~§9-2502.~~

(A) On or before October 1, 2023, the Department shall approve a single producer responsibility organization to represent the interests of producers under this subtitle.~~‡~~

~~9-2502.~~

(B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THIS SUBTITLE PROVIDE A FRAMEWORK FOR:

(1) MINIMIZING THE ENVIRONMENTAL AND HUMAN HEALTH IMPACTS OF PACKAGING, INCLUDING BY:

(I) REDUCING THE AMOUNT OF PACKAGING, ESPECIALLY PLASTIC PACKAGING, SOLD IN THE STATE;

(II) REDUCING PACKAGING WASTE;

(III) REDESIGNING PACKAGING TO BE RECYCLABLE, COMPOSTABLE, AND REUSABLE; AND

(IV) REDUCING THE TOXICITY OF PACKAGING;

(2) CONSERVING RESOURCES BY INCREASING THE RECYCLING RATES AND RECYCLED CONTENT OF COVERED PRODUCTS;

(3) MODERNIZING AND IMPROVING WASTE AND RECYCLING SYSTEMS IN THE STATE, INCLUDING BY:

(I) FACILITATING:

~~(I) THE FACILITATING THE IMPROVEMENT OF REUSE, ORGANICS RECYCLING COMPOSTING, AND RECYCLING;~~

~~(II) THE IMPROVEMENT OF RECYCLING MARKETS;~~

~~(III) THE REDUCTION OF WASTE~~ STIMULATING RESPONSIBLE END MARKETS FOR COVERED MATERIALS; AND

~~(IV) (III) AN INCREASE IN RECYCLING RATES~~ IMPROVING ACCESS TO AND THE EFFICIENCY OF RECYCLING, COMPOSTING, AND REUSE INFRASTRUCTURE, WITH SPECIAL EMPHASIS ON UNDERSERVED COMMUNITIES; AND

~~(2) (4) REIMBURSING LOCAL GOVERNMENTS~~ MAKING PRODUCERS FINANCIALLY RESPONSIBLE FOR INVESTING IN THE NEEDED INFRASTRUCTURE AND REIMBURSING LOCAL GOVERNMENTS AND OTHER SERVICE PROVIDERS FOR COSTS ASSOCIATED WITH TRANSPORTING, COLLECTING, AND PROCESSING ~~PACKAGING COVERED MATERIALS.~~

9-2503.

(a) There is a producer responsibility advisory council.

(b) The purpose of the advisory council is to provide advice and make recommendations regarding establishing and implementing a producer responsibility program in the State for ~~packaging~~ COVERED materials, INCLUDING ADVICE ON DRAFTING, AMENDING, AND IMPLEMENTING PRODUCER RESPONSIBILITY PLANS.

(c) (1) The advisory council shall consist of [up to 21 members,] MEMBERS appointed by the Secretary, representing a broad range of interested stakeholders, including:

(i) Representatives from the following industries or entities in the State:

1. Local government agencies responsible for recycling programs;
2. Recyclables and compostable materials collectors from both the public and private sectors;
3. Recycling processors from both the public and private sectors;
4. Organics recycling processors;

5. Producers from the consumer goods sector;
6. Retail and small businesses; and
7. Material-oriented trade groups;

(ii) ~~A representative from the producer responsibility organization approved by the Department under [§ 9-2502] § 9-2505(A) of this subtitle;~~

~~(iii)~~ Representatives of at least two nonprofit organizations in the State with missions related to reducing waste;

~~(iv)~~ **(III)** At least one representative of an environmental advocacy organization;

~~(v)~~ **(IV)** At least one representative of an advocacy organization that advocates on behalf of overburdened or underserved communities, as defined in § 1-701 of this article; ~~and~~

~~(vi)~~ **(V)** At least two members of the public who reside in the State;
AND

(VI) THE FOLLOWING NONVOTING MEMBERS, WHO MAY NOT SERVE AS COCHAIRS OF THE ADVISORY COUNCIL:

1. A REPRESENTATIVE OF THE PRODUCER RESPONSIBILITY ORGANIZATION APPROVED BY THE DEPARTMENT UNDER § 9-2502(A) OF THIS SUBTITLE; AND

2. THE DIRECTOR OF THE DEPARTMENT'S LAND AND MATERIALS ADMINISTRATION, OR THE DIRECTOR'S DESIGNEE.

(2) In appointing members to the advisory council, the Secretary shall, to the extent practicable, ensure that the membership of the advisory council represents:

- (i) All geographic regions of the State;
- (ii) Large and small counties and municipalities; and

(iii) The variability in how waste and recyclable and compostable materials are collected and processed in the State.

~~**(3) A MEMBER OF A PRODUCER RESPONSIBILITY ORGANIZATION MAY NOT SERVE AS A VOTING MEMBER OR AS A COCHAIR OF THE ADVISORY COUNCIL.**~~

(d) From among the advisory council members, the Secretary shall designate two representatives to serve as cochairs.

(e) The Department shall provide staff for the advisory council.

(f) A member of the advisory council:

(1) May not receive compensation as a member of the advisory council; but

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(g) The advisory council shall meet at the request of the Secretary.

(h) [(1)] The advisory council shall [evaluate and make recommendations, including legislative recommendations, on how to effectively establish and implement a producer responsibility program in the State for packaging materials.

(2) In making recommendations under paragraph (1) of this subsection, the advisory council shall include recommendations regarding the responsibilities of producers under a producer responsibility program]:

(1) ON REQUEST BY A PRODUCER OR PRODUCER RESPONSIBILITY ORGANIZATION, PROVIDE ADVICE REGARDING THE DRAFTING OR AMENDING OF A PRODUCER RESPONSIBILITY PLAN REQUIRED UNDER § 9-2505 OF THIS SUBTITLE;

(2) RECEIVE AND REVIEW THE PRODUCER RESPONSIBILITY PLANS SUBMITTED IN ACCORDANCE WITH § 9-2505 OF THIS SUBTITLE;

(3) RECEIVE AND REVIEW ANNUAL REPORTS SUBMITTED IN ACCORDANCE WITH ~~§ 9-2507~~ § 9-2509 OF THIS SUBTITLE;

(4) MAKE RECOMMENDATIONS TO THE DEPARTMENT REGARDING PRODUCER RESPONSIBILITY PLAN APPROVAL;

(5) MAKE RECOMMENDATIONS TO THE DEPARTMENT AND PRODUCER RESPONSIBILITY ORGANIZATIONS REGARDING PRODUCER RESPONSIBILITY PLAN IMPLEMENTATION; AND

(6) PROVIDE WRITTEN RECOMMENDATIONS REGARDING THE PRODUCER RESPONSIBILITY PLAN, INCLUDING ANY UPDATE OR REVISION TO AN APPROVED PLAN, TO A PRODUCER RESPONSIBILITY ORGANIZATION BEFORE THE PRODUCER RESPONSIBILITY ORGANIZATION SUBMITS THE PLAN TO THE DEPARTMENT.

[(i) On or before December 1, 2024, the advisory council shall report its findings and recommendations to the Governor and, in accordance with § 2-1257 of the State Government Article, the Senate Committee on Education, Energy, and the Environment and the House Environment and Transportation Committee.]

9-2504.

(A) THIS SUBTITLE DOES NOT AFFECT THE AUTHORITY OF THE STATE OR A LOCAL JURISDICTION TO REGULATE THE SALE OR USE OF ANY PACKAGING MATERIAL.

(B) THIS SUBTITLE MAY NOT BE CONSTRUED TO:

(1) PROHIBIT A LOCAL GOVERNMENT, A SERVICE PROVIDER, OR ANY OTHER ENTITY FROM SELLING RECYCLED MATERIALS OR COMPOST TO END MARKETS AND RETAINING THE REVENUES FROM THOSE SALES;

(2) AFFECT THE AUTHORITY OF A PUBLICLY OR PRIVATELY OWNED MATERIALS RECYCLING FACILITY OR ~~ORGANICS RECYCLING~~ COMPOSTING FACILITY TO DETERMINE WHICH ENTITIES MAY USE THE FACILITY; ~~OR~~

(3) LIMIT THE ABILITY OF LOCAL GOVERNMENTS, MATERIALS RECYCLING FACILITIES, OR ~~ORGANICS RECYCLING~~ COMPOSTING FACILITIES TO MAKE DECISIONS ON RECYCLING INFRASTRUCTURE PURCHASES, INCLUDING PROCESSING EQUIPMENT; OR

(4) PRECLUDE THE SEPARATE ADOPTION OF A BEVERAGE CONTAINER DEPOSIT RETURN PROGRAM IN THE STATE TO REDUCE BEVERAGE CONTAINER POLLUTION AND PLASTIC WASTE.

9-2505.

(A) (1) ~~ON OR BEFORE JUNE 30, 2025, THE DEPARTMENT SHALL APPROVE A SINGLE PRODUCER RESPONSIBILITY ORGANIZATION TO FULFILL THE REQUIREMENTS OF THIS SUBSECTION.~~

~~(2)~~ (I) BEGINNING JULY 1, ~~2025~~ 2026, AND EACH YEAR THEREAFTER, THE PRODUCER RESPONSIBILITY ORGANIZATION APPROVED UNDER § 9-2502(A) OF THIS SUBTITLE SHALL FILE A REGISTRATION FORM WITH THE DEPARTMENT.

(II) THE REGISTRATION FORM SHALL INCLUDE:

1. A LIST OF THE PRODUCERS PARTICIPATING IN THE PRODUCER RESPONSIBILITY ORGANIZATION;

2. A LIST OF THE BRANDS OF EACH PRODUCER PARTICIPATING IN THE PRODUCER RESPONSIBILITY ORGANIZATION;

3. A LIST OF THE COVERED MATERIALS OF EACH PRODUCER PARTICIPATING IN THE PRODUCER RESPONSIBILITY ORGANIZATION; AND

4. THE NAME, ADDRESS, AND CONTACT INFORMATION OF A PERSON RESPONSIBLE FOR ENSURING THE PRODUCER RESPONSIBILITY ORGANIZATION'S AND THE MEMBER PRODUCERS' COMPLIANCE WITH THIS SUBTITLE.

(III) ~~SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, AT~~ AT THE TIME OF FILING THE REGISTRATION FORM, THE PRODUCER RESPONSIBILITY ORGANIZATION SHALL PAY TO THE DEPARTMENT AN ANNUAL REGISTRATION FEE, AS SET BY THE DEPARTMENT, IN AN AMOUNT SUFFICIENT TO COVER ~~THE COSTS OF RECORD KEEPING, NOT TO EXCEED \$1,000;~~

1. IN EACH YEAR:

A. THE COSTS OF RECORD KEEPING UNDER THIS SUBTITLE, NOT TO EXCEED \$1,000; AND

B. THE COSTS OF DEVELOPING AND UPDATING THE LIST REQUIRED UNDER § 9-2508 OF THIS SUBTITLE;

2. ~~IN 2026 ONLY~~ AS NECESSARY, THE COSTS OF DEVELOPING AND IMPLEMENTING REGULATIONS IN ACCORDANCE WITH § 9-2511 OF THIS SUBTITLE; AND

3. IN 2028 AND EACH YEAR THEREAFTER, THE COSTS OF REGISTERING SERVICE PROVIDERS UNDER § 9-2507 OF THIS SUBTITLE.

~~(3) BEFORE ESTABLISHING AND COLLECTING AN ANNUAL REGISTRATION FEE UNDER PARAGRAPH (2)(III) OF THIS SUBSECTION, THE DEPARTMENT SHALL:~~

~~(I) PUBLISH A PROPOSED FEE ON ITS WEBSITE; AND~~

~~(II) ALLOW 90 CALENDAR DAYS FOR PUBLIC COMMENT.~~

~~(4)~~ (2) (I) ON OR AFTER JULY 1, ~~2031~~ 2033, A NONPROFIT ORGANIZATION MAY REQUEST THAT THE DEPARTMENT DESIGNATE THE NONPROFIT ORGANIZATION AS AN ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION.

(II) THE DEPARTMENT MAY DESIGNATE A NONPROFIT ORGANIZATION AS AN ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION IF THE DEPARTMENT DETERMINES, IN COORDINATION WITH THE ADVISORY COUNCIL ESTABLISHED UNDER § 9-2503 OF THIS SUBTITLE, THAT THE DESIGNATION OF THE ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION IS NECESSARY TO:

1. INCREASE RECYCLING RATES; OR
2. IMPROVE RECYCLING SERVICES FOR A SPECIFIC TYPE OF ~~PACKAGING~~ COVERED MATERIAL.

(III) IF THE DEPARTMENT APPROVES THE DESIGNATION OF AN ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATION UNDER THIS SUBSECTION, THE PRODUCER RESPONSIBILITY ORGANIZATION SHALL:

1. NOT LATER THAN 30 DAYS AFTER BEING APPROVED BY THE DEPARTMENT AND ON OR BEFORE JULY 1 EACH YEAR THEREAFTER, FILE A REGISTRATION FORM WITH THE DEPARTMENT CONTAINING THE INFORMATION REQUIRED UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION AND PAY THE ANNUAL REGISTRATION FEE DESCRIBED IN PARAGRAPH (2)(III) OF THIS SUBSECTION; AND

2. COORDINATE WITH THE PRODUCER RESPONSIBILITY ORGANIZATION ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT, AND LOCAL GOVERNMENTS TO ENSURE THAT:

A. RECYCLING SERVICES FOR RESIDENTS OF THE STATE ARE PROVIDED IN A SEAMLESS MANNER; AND

B. PUBLIC OUTREACH, EDUCATION, AND COMMUNICATION ARE PROVIDED IN A CONSISTENT MANNER.

(IV) THE PRODUCER RESPONSIBILITY ORGANIZATION ESTABLISHED UNDER PARAGRAPH (1) OF THIS SUBSECTION AND ANY ADDITIONAL PRODUCER RESPONSIBILITY ORGANIZATIONS DESIGNATED UNDER THIS PARAGRAPH MAY CREATE A REPRESENTATIVE ORGANIZATION TO REPRESENT THE PARTICIPATING PRODUCER RESPONSIBILITY ORGANIZATIONS TO IMPLEMENT THE REQUIREMENTS OF THIS SUBTITLE.

(3) (I) ON OR AFTER JULY 1, 2026, AND IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SUBSECTION AND ANY REGULATIONS ADOPTED BY THE DEPARTMENT, A PRODUCER OR GROUP OF PRODUCERS MAY DEVELOP AND OPERATE AN ALTERNATIVE COLLECTION PROGRAM TO COLLECT AND MANAGE A TYPE OR TYPES OF COVERED MATERIAL SOLD, OFFERED FOR SALE, OR DISTRIBUTED FOR SALE IN OR INTO THE STATE BY THE PRODUCER OR PRODUCERS.

(II) A PRODUCER THAT MANAGES A TYPE OF COVERED MATERIAL UNDER AN APPROVED ALTERNATIVE COLLECTION PROGRAM THROUGH REUSE, RECYCLING, OR COMPOSTING MAY WHOLLY OR IN PART OFFSET THE PRODUCER'S PAYMENT OBLIGATIONS UNDER THIS SUBTITLE.

(III) AN ALTERNATIVE COLLECTION PROGRAM SHALL IMPROVE AND PROVIDE A DEDICATED COLLECTION PROGRAM FOR THE APPLICABLE COVERED MATERIAL.

(B) (1) ON OR BEFORE ~~APRIL 1, 2027~~ JULY 1, 2028, AND EVERY 5 YEARS THEREAFTER, EACH PRODUCER SHALL, INDIVIDUALLY OR AS PART OF A PRODUCER RESPONSIBILITY ORGANIZATION, SUBMIT A PRODUCER RESPONSIBILITY PLAN TO THE DEPARTMENT FOR REVIEW AND APPROVAL.

(2) BEFORE SUBMITTING THE PLAN REQUIRED UNDER THIS SUBSECTION TO THE DEPARTMENT, A PRODUCER OR PRODUCER RESPONSIBILITY ORGANIZATION SHALL:

(I) CONSULT WITH THE ADVISORY COUNCIL ESTABLISHED UNDER § 9-2503 OF THIS SUBTITLE; AND

(II) CONSIDER THE WRITTEN RECOMMENDATIONS OF THE ADVISORY COUNCIL AND RESPOND IN WRITING TO THE ADVISORY COUNCIL.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, ON OR AFTER A DATE ESTABLISHED IN REGULATIONS ADOPTED BY THE DEPARTMENT UNDER ~~§ 9-2509~~ § 9-2511 OF THIS SUBTITLE, A PRODUCER MAY NOT SELL, OFFER FOR SALE, DISTRIBUTE, OR IMPORT FOR SALE OR DISTRIBUTION ~~PACKAGING~~ COVERED MATERIALS FOR USE IN THE STATE UNLESS THE PRODUCER, INDIVIDUALLY OR AS PART OF A PRODUCER RESPONSIBILITY ORGANIZATION, HAS AN APPROVED PRODUCER RESPONSIBILITY PLAN ON FILE WITH THE DEPARTMENT.

(II) A PRODUCER IS NOT REQUIRED TO SUBMIT A PRODUCER RESPONSIBILITY PLAN TO THE DEPARTMENT, INDIVIDUALLY OR AS PART OF A PRODUCER RESPONSIBILITY ORGANIZATION, IF ANOTHER PERSON HAS AGREED TO ASSUME RESPONSIBILITY UNDER THIS SUBTITLE FOR ANY ~~PACKAGING~~ COVERED

MATERIAL SOLD, OFFERED FOR SALE, OR DISTRIBUTED IN OR INTO THE STATE BY THAT PRODUCER.

(C) (1) A PRODUCER RESPONSIBILITY PLAN SHALL:

~~(1)~~ (I) IDENTIFY THE PRODUCERS COVERED BY THE PLAN, INCLUDING THE CONTACT INFORMATION FOR EACH PARTICIPATING PRODUCER AND THE PRODUCER RESPONSIBILITY ORGANIZATION;

~~(2)~~ (II) IDENTIFY EACH BRAND OF ~~PACKAGING~~ COVERED MATERIALS COVERED BY THE PLAN;

~~(3)~~ (III) REQUIRE, IN ACCORDANCE WITH SUBSECTION (D) OF THIS SECTION, ACHIEVEMENT WITHIN 5 YEARS AFTER THE DATE ON WHICH THE FIRST VERSION OF THE PLAN IS APPROVED AND ESTABLISH THE FOLLOWING PERFORMANCE GOALS, AS RELEVANT AND AS APPROPRIATE, FOR EACH ~~PACKAGING~~ COVERED MATERIAL TYPE:

~~(I)~~ 1. ~~POSTCONSUMER RECYCLED CONTENT GOALS;~~

~~(II)~~ ~~RECYCLABILITY AND RECYCLING RATE GOALS;~~

~~(III)~~ ~~REUSE GOALS;~~

~~(IV)~~ ~~PACKAGING REDUCTION GOALS;~~

~~(V)~~ ~~COMPOST ACCESS OR COMPOST RATE GOALS, IF APPLICABLE AND TECHNOLOGICALLY AND ENVIRONMENTALLY FEASIBLE;~~

~~(VI)~~ ~~CONTAMINATION REDUCTION RATE GOALS;~~ RECYCLING RATES;

2. COMPOSTING RATES;

3. REUSE RATES;

4. RETURN RATES;

5. THE PERCENTAGE OF COVERED MATERIALS TO BE WASTE REDUCED;

6. THE PERCENTAGE OF POSTCONSUMER RECYCLED CONTENT THAT COVERED MATERIALS ARE REQUIRED TO CONTAIN, INCLUDING THE OVERALL PERCENTAGE FOR ALL COVERED MATERIALS AS APPLICABLE, AND NOT

INCLUDING COMPOSTABLE MATERIALS THAT CANNOT CONTAIN POSTCONSUMER RECYCLED CONTENT DUE TO UNIQUE CHEMICAL OR PHYSICAL PROPERTIES OR HEALTH AND SAFETY REQUIREMENTS THAT PROHIBIT THE INTRODUCTION OF POSTCONSUMER RECYCLED CONTENT; AND

~~(VII)~~ 7. GREENHOUSE GAS REDUCTION GOALS; AND

~~(VIII) ANY OTHER GOAL THAT REDUCES PACKAGING MATERIAL WASTE AND IS JUSTIFIED IN THE PLAN;~~

~~(4) REQUIRE EACH PARTICIPATING PRODUCER TO REDUCE PACKAGING MATERIAL WASTE TO THE MAXIMUM EXTENT PRACTICABLE, AND BY NOT LESS THAN 25%, WITHIN 5 YEARS AFTER THE DATE ON WHICH THE FIRST VERSION OF THE PLAN IS APPROVED;~~

~~(5)~~ (IV) DESCRIBE, IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION, THE FINANCING METHOD THAT WILL BE USED TO IMPLEMENT THE PLAN;

(V) DESCRIBE HOW, FOR EACH COVERED MATERIAL TYPE, THE PRODUCER RESPONSIBILITY ORGANIZATION WILL MEASURE RECYCLING, WASTE REDUCTION, REUSE, COMPOSTING, AND THE INCLUSION OF POSTCONSUMER RECYCLED CONTENT;

~~(6)~~ (VI) DESCRIBE HOW THE PERFORMANCE GOALS ESTABLISHED UNDER ITEM ~~(3)~~ (III) OF THIS SUBSECTION PARAGRAPH WILL BE MET OR EXCEEDED;

(VII) INCLUDE PROPOSALS FOR EXEMPTIONS FROM PERFORMANCE TARGETS AND STATEWIDE REQUIREMENTS FOR COVERED MATERIALS THAT CANNOT BE WASTE REDUCED OR MADE REUSABLE, RECYCLABLE, OR COMPOSTABLE DUE TO FEDERAL OR STATE HEALTH AND SAFETY REQUIREMENTS, IDENTIFYING THE SPECIFIC FEDERAL OR STATE REQUIREMENT AND THEIR IMPACT ON THE COVERED MATERIALS;

(VIII) DESCRIBE INFRASTRUCTURE INVESTMENTS, INCLUDING GOALS AND OUTCOMES AND A DESCRIPTION OF HOW THE PROCESS TO OFFER AND SELECT OPPORTUNITIES WILL BE CONDUCTED IN AN OPEN, COMPETITIVE, AND FAIR MANNER, HOW IT WILL ADDRESS GAPS IN THE SYSTEM NOT MET BY SERVICE PROVIDERS, AND THE POTENTIAL FINANCIAL AND LEGAL INSTRUMENTS TO BE USED;

(IX) EXPLAIN HOW THE PROGRAM WILL BE PAID FOR BY THE PRODUCER RESPONSIBILITY ORGANIZATION THROUGH FEES FROM PRODUCERS, WITHOUT ANY NEW OR ADDITIONAL CONSUMER-FACING FEE TO MEMBERS OF THE PUBLIC, BUSINESSES, SERVICE PROVIDERS, THE STATE OR ANY POLITICAL

SUBDIVISIONS, OR ANY OTHER PERSON WHO IS NOT A PRODUCER, UNLESS THE FEE IS:

1. A DEPOSIT MADE IN CONNECTION WITH A PRODUCT'S REFILL, REUSE, OR RECYCLING THAT CAN BE REDEEMED BY A CONSUMER; OR

2. A CHARGE FOR SERVICE BY A SERVICE PROVIDER, REGARDLESS OF WHETHER THE SERVICE PROVIDER IS REGISTERED;

(X) DESCRIBE ACTIVITIES TO BE UNDERTAKEN BY THE PRODUCER RESPONSIBILITY ORGANIZATION DURING EACH YEAR TO:

1. MINIMIZE THE ENVIRONMENTAL IMPACTS AND HUMAN HEALTH IMPACTS OF COVERED MATERIALS, INCLUDING ASSESSING EACH COVERED MATERIAL'S GENERATION OF HAZARDOUS WASTE, GENERATION OF GREENHOUSE GASES, ENVIRONMENTAL JUSTICE IMPACTS, PUBLIC HEALTH IMPACTS, AND OTHER IMPACTS;

2. FOSTER THE IMPROVED DESIGN OF COVERED MATERIALS;

3. PROVIDE FUNDING TO EXPAND AND INCREASE THE CONVENIENCE OF WASTE REDUCTION, REUSE, COLLECTION, RECYCLING, AND COMPOSTING SERVICES TO COVERED ENTITIES;

4. PROVIDE FOR REIMBURSEMENT RATES UNDER SUBSECTION (E)(1)(II) OF THIS SECTION TO SERVICE PROVIDERS FOR STATEWIDE COVERAGE OF COVERED SERVICES AT AN OPTIMAL LEVEL OF CONVENIENCE AND SERVICE FOR APPLICABLE COVERED MATERIALS ON THE LIST ESTABLISHED UNDER § 9-2508 OF THIS SUBTITLE; AND

5. MONITOR TO ENSURE THAT POSTCONSUMER MATERIALS ARE DELIVERED TO RESPONSIBLE END MARKETS;

(XI) INCLUDE PERFORMANCE STANDARDS FOR SERVICE PROVIDERS AS APPLICABLE TO THE SERVICE PROVIDED, INCLUDING:

1. REQUIREMENTS THAT SERVICE PROVIDERS MUST ACCEPT ALL REQUIRED COVERED MATERIALS ON THE LIST ESTABLISHED UNDER § 9-2508 OF THIS SUBTITLE; AND

2. LABOR STANDARDS AND SAFETY PRACTICES, INCLUDING SAFETY PROGRAMS, HEALTH BENEFITS, AND LIVING WAGES;

(XII) DESCRIBE HOW THE PRODUCER RESPONSIBILITY ORGANIZATION WILL TREAT AND PROTECT NONPUBLIC DATA SUBMITTED BY SERVICE PROVIDERS;

(XIII) INCLUDE A DESCRIPTION OF HOW THE PRODUCER RESPONSIBILITY ORGANIZATION WILL PROVIDE TECHNICAL ASSISTANCE TO SERVICE PROVIDERS IN ORDER TO ASSIST THEM IN DELIVERING COVERED MATERIALS TO RESPONSIBLE END MARKETS;

~~(7)~~ (XIV) DESCRIBE HOW STAKEHOLDER COMMENTS WERE CONSIDERED IN THE DEVELOPMENT OF THE PLAN;

~~(8)~~ (XV) DESCRIBE HOW STAFFING AND ADMINISTERING THE IMPLEMENTATION OF THE PLAN WILL BE HANDLED;

~~(9) DESCRIBE THE STRATEGY FOR REDUCING PACKAGING MATERIALS IN THE STATE, INCLUDING HOW PRODUCERS PARTICIPATING IN A PLAN WILL WORK TOGETHER TO REDUCE PACKAGING THROUGH PRODUCT DESIGN AND PROGRAM INNOVATIONS;~~

~~(10)~~ (XVI) DESCRIBE THE ACTIONS TAKEN OR THAT WILL BE TAKEN FOR PUBLIC OUTREACH, EDUCATION, AND COMMUNICATION, TAKING INTO ACCOUNT THAT PUBLIC OUTREACH, EDUCATION, AND COMMUNICATION SHALL:

~~(I)~~ 1. PROMOTE THE RESPONSIBLE END-OF-LIFE MANAGEMENT OF PACKAGING COVERED MATERIALS;

~~(II)~~ 2. PROVIDE INFORMATION ON HOW TO PREVENT LITTER OF PACKAGING COVERED MATERIALS;

~~(III)~~ 3. PROVIDE RECYCLING AND ORGANICS RECYCLING COMPOSTING INSTRUCTIONS THAT ARE, TO THE EXTENT PRACTICABLE:

~~1.~~ A. CONSISTENT STATEWIDE, TAKING INTO ACCOUNT DIFFERENCES AMONG LOCAL LAWS AND PROCESSING CAPABILITIES;

~~2.~~ B. EASY TO UNDERSTAND; AND

~~3.~~ C. EASILY ACCESSIBLE; AND

~~(IV)~~ 4. PROVIDE FOR OUTREACH AND EDUCATION THAT ARE:

~~1.~~ A. DESIGNED TO ACHIEVE PACKAGING MATERIALS MANAGEMENT GOALS AND REQUIREMENTS, INCLUDING THE PREVENTION OF CONTAMINATION OF ~~PACKAGING~~ COVERED MATERIALS;

~~2.~~ B. COORDINATED ACROSS PROGRAMS TO AVOID CONFUSION FOR CONSUMERS; AND

~~3.~~ C. DEVELOPED IN CONSULTATION WITH LOCAL GOVERNMENTS AND OTHER STAKEHOLDERS;

~~(11)~~ (XVII) DESCRIBE, IN ACCORDANCE WITH SUBSECTION (F) OF THIS SECTION, THE AMOUNT OF FUNDING THAT WILL BE USED FOR IMPROVING REUSE, ~~ORGANICS RECYCLING~~ COMPOSTING, AND RECYCLING IN THE STATE;

~~(12)~~ (XVIII) DESCRIBE THE PROCESS BY WHICH A ~~LOCAL GOVERNMENT~~ SERVICE PROVIDER MAY REQUEST REIMBURSEMENT FOR COSTS ASSOCIATED WITH TRANSPORTING, COLLECTING, AND PROCESSING ~~PACKAGING~~ COVERED MATERIALS THAT ARE IDENTIFIED IN THE PLAN, INCLUDING:

~~(I)~~ 1. THE PROCESS BY WHICH THE REQUEST WILL BE REVIEWED;

~~(II)~~ 2. THE PROCESS FOR APPROVING OR DENYING A REQUEST FOR REIMBURSEMENT;

~~(III)~~ 3. THE SCHEDULE FOR PROVIDING REIMBURSEMENT THAT INCLUDES REIMBURSEMENT ON AT LEAST A QUARTERLY BASIS; ~~AND~~

~~(IV)~~ 4. THE PROCESS FOR PROVIDING REIMBURSEMENT FOR MULTIPLE BRANDS OF ~~PACKAGING~~ COVERED MATERIALS; AND

5. THE PROCESS FOR RESOLVING, THROUGH ARBITRATION, DISPUTES THAT ARISE BETWEEN THE PRODUCER RESPONSIBILITY ORGANIZATION AND A SERVICE PROVIDER REGARDING THE DETERMINATION OF REIMBURSEMENT RATES AND PAYMENT OF REIMBURSEMENTS;

~~(13)~~ (XIX) (I) 1. PROVIDE THE WRITTEN RECOMMENDATIONS FROM THE ADVISORY COUNCIL PROVIDED UNDER § 9-2503 OF THIS SUBTITLE AND THE PRODUCER RESPONSIBILITY ORGANIZATION'S WRITTEN RESPONSE TO THE ADVISORY COUNCIL; AND

~~(H)~~ 2. DESCRIBE HOW THE WRITTEN RECOMMENDATIONS FROM THE ADVISORY COUNCIL WERE CONSIDERED AND ADDRESSED IN THE DEVELOPMENT OF THE PLAN; AND

~~(14)~~ (XX) INCLUDE ANY OTHER INFORMATION THAT IS REQUIRED BY THE DEPARTMENT.

(2) THE PERFORMANCE GOALS ESTABLISHED UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION DO NOT APPLY TO:

(I) PRODUCTS PACKAGED AT ESTABLISHMENTS UNDER MANDATORY INSPECTION BY THE U.S. DEPARTMENT OF AGRICULTURE'S FOOD SAFETY AND INSPECTION SERVICE IN ACCORDANCE WITH THE FEDERAL MEAT INSPECTION ACT, THE FEDERAL POULTRY PRODUCTS INSPECTION ACT, THE FEDERAL EGG PRODUCTS INSPECTION ACT, OR U.S. DEPARTMENT OF AGRICULTURAL OR U.S. FOOD AND DRUG ADMINISTRATION REGULATIONS RELATED TO CHEESE PACKAGING;

(II) PRODUCTS PACKAGED AT FACILITIES REGULATED UNDER STATE MEAT AND DAIRY INSPECTION LAWS; OR

(III) FOR A PERIOD OF 5 YEARS AFTER THE DATE ON WHICH THE FIRST VERSION OF THE PLAN IS APPROVED AND ESTABLISHED, WITH AN OPTIONAL EXTENSION OF 5 YEARS CONTINGENT ON THE DEVELOPMENT OF RECYCLING, INCLUDING ORGANICS RECYCLING, INFRASTRUCTURE CAPABLE OF HANDLING PATHOGEN-CONTAMINATED PACKAGING IN A SAFE AND EFFECTIVE MANNER, CHEESE, MEAT, AND POULTRY PREPARED AND PACKAGED AT RETAIL LOCATIONS SUCH AS GROCERY STORES, BUTCHER SHOPS, OR ONLINE RETAILERS.

(D) BASED ON THE RESULTS OF THE MOST RECENT STATEWIDE RECYCLING NEEDS ASSESSMENT CONDUCTED UNDER CHAPTER 465 OF THE ACTS OF THE GENERAL ASSEMBLY OF 2023 OR § 9-1702.2 OF THIS TITLE, THE DEPARTMENT, IN COORDINATION WITH A PRODUCER RESPONSIBILITY ORGANIZATION AND VIA THE APPROVAL OF PRODUCER RESPONSIBILITY PLANS, SHALL ESTABLISH PERFORMANCE GOALS FOR EACH ~~PACKAGING COVERED~~ MATERIAL TYPE USING A BASELINE YEAR THAT IS INFORMED BY THE STATEWIDE RECYCLING NEEDS ASSESSMENT, INCLUDING ESTABLISHING RECYCLING RATE GOALS FOR EACH ~~PACKAGING COVERED~~ MATERIAL TYPE, AT 5-, 10-, AND 15-YEAR INTERVALS.

(E) (1) THE FINANCING METHOD THAT WILL BE USED BY A PRODUCER RESPONSIBILITY ORGANIZATION TO IMPLEMENT A PRODUCER RESPONSIBILITY PLAN SHALL:

(I) PROVIDE THE METHOD FOR EITHER DIRECT INVESTMENTS OR REIMBURSEMENTS FOR IMPROVING INFRASTRUCTURE FOR REUSE, ~~ORGANICS RECYCLING~~ COMPOSTING, AND RECYCLING IN ACCORDANCE WITH SUBSECTION ~~(C)(11)~~ (C)(1)(XVII) OF THIS SECTION, WITH PRIORITY GIVEN TO THE IMPROVEMENT OF EXISTING INFRASTRUCTURE;

(II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ~~PROVIDE:~~

1. PROVIDE A METHODOLOGY FOR REIMBURSEMENT RATES FOR COVERED SERVICES FOR COVERED MATERIALS, EXCLUSIVE OF EXEMPT MATERIALS AND PRODUCERS;

2. INCORPORATE RELEVANT COST INFORMATION IDENTIFIED BY THE MOST RECENT NEEDS ASSESSMENT PERFORMED UNDER CHAPTER 465 OF THE ACTS OF THE GENERAL ASSEMBLY OR § 9-1702.2 OF THIS TITLE;

3. BE UPDATED ANNUALLY; AND

4. ESTABLISH REIMBURSEMENT RATES EQUIVALENT TO:

A. AT LEAST 50% OF THE COST PER TON ON OR BEFORE JULY 1, 2028;

B. AT LEAST 75% OF THE COST PER TON ON OR BEFORE JULY 1, 2029; AND

C. AT LEAST 90% OF THE COST PER TON ON OR BEFORE JULY 1, 2030, AND EACH YEAR THEREAFTER ~~A REASONABLE ANNUAL RATE PER TON OF RECYCLED OR COMPOSTED PACKAGING MATERIALS FOR REIMBURSING LOCAL GOVERNMENTS FOR COSTS ASSOCIATED WITH:~~

~~1. UP TO 50% OF THE COST OF COLLECTING PACKAGING MATERIALS THAT ARE IDENTIFIED IN THE PLAN;~~

~~2. TRANSPORTING RECYCLABLE OR COMPOSTABLE PACKAGING MATERIALS TO A MATERIALS RECYCLING FACILITY OR AN ORGANICS RECYCLING FACILITY;~~

~~3. PROCESSING PACKAGING MATERIALS, INCLUDING REMOVING CONTAMINATION; AND~~

~~4. CONVERTING PACKAGING MATERIALS THAT ARE
DIVERTED TO BE RECYCLED OR COMPOSTED INTO COMMODITY MATERIALS;~~

(III) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, ESTABLISH A FEE STRUCTURE FOR PARTICIPATING PRODUCERS THAT IS SET IN A MANNER TO COVER COSTS ASSOCIATED WITH:

1. IMPLEMENTING THE PLAN, INCLUDING THE ADMINISTRATIVE COSTS OF A PRODUCER RESPONSIBILITY ORGANIZATION;

2. REIMBURSING LOCAL GOVERNMENTS OR SERVICE PROVIDERS FOR COSTS IN ACCORDANCE WITH ITEM (II) OF THIS PARAGRAPH;

3. THE ADMINISTRATION, REVIEW, OVERSIGHT, AND ENFORCEMENT OF THE PLAN BY THE DEPARTMENT; AND

~~4. IMPLEMENTING THE STRATEGY IN THE PLAN FOR
REDUCING PACKAGING MATERIALS IN ACCORDANCE WITH SUBSECTION (C)(9) OF
THIS SECTION; AND~~

~~5.~~ IMPLEMENTING THE STRATEGY IN THE PLAN FOR IMPROVING REUSE, ~~ORGANICS RECYCLING~~ COMPOSTING, AND RECYCLING IN THE STATE IN ACCORDANCE WITH SUBSECTION ~~(C)(11)~~ (C)(1)(XVII) OF THIS SECTION;

(IV) 1. DESCRIBE THE INCENTIVES TO ENCOURAGE PARTICIPATING PRODUCERS TO ENGAGE IN WASTE REDUCTION AND RECYCLING ACTIVITIES; AND

2. DESCRIBE THE DISINCENTIVES TO DISCOURAGE DESIGNS OR PRACTICES THAT INCREASE THE COST OF MANAGING PACKAGING MATERIALS;

(V) BE EVALUATED BY AN INDEPENDENT FINANCIAL AUDITOR, AS DESIGNATED BY THE DEPARTMENT, TO ENSURE THAT THE COSTS OF IMPLEMENTING THE PLAN ARE COVERED; AND

(VI) MEET ANY OTHER REQUIREMENT ESTABLISHED BY THE DEPARTMENT BY REGULATION.

(2) THE REIMBURSEMENT RATE ESTABLISHED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION SHALL ~~BE~~

~~(I) BASED ON THE FOLLOWING, AS APPLICABLE BY SERVICE PROVIDED;~~

- ~~1. THE POPULATION SIZE OF A LOCAL JURISDICTION;~~
- ~~2. THE DISTANCE TO THE RELEVANT MATERIALS RECYCLING FACILITY OR ORGANICS RECYCLING FACILITY;~~
- ~~3. THE COMMODITY VALUE OF RECYCLED PACKAGING MATERIALS; AND~~
- ~~4. ANY SOCIOECONOMIC OR GEOGRAPHIC FACTOR, AS DETERMINED BY THE DEPARTMENT; AND~~

~~(II) DISCOUNTED EQUIVALENT TO THE ESTIMATED ANNUAL VOLUME OF PACKAGING MATERIALS SOLD IN THE STATE BY PERSONS THAT ARE EXEMPT FROM THE REQUIREMENTS OF THIS SUBTITLE BE BASED ON THE FOLLOWING, AS APPLICABLE BY SERVICE PROVIDED:~~

~~(I) A FIXED AMOUNT FOR EACH TON OF COVERED MATERIAL COLLECTED BY A SERVICE PROVIDER THAT REFLECTS CONDITIONS AFFECTING COLLECTION, RECYCLING, AND COMPOSTING COSTS IN THE REGION OR JURISDICTION WHERE THE SERVICES WERE PROVIDED, INCLUDING:~~

- ~~1. THE NUMBER AND SIZE OF COVERED ENTITIES;~~
- ~~2. POPULATION DENSITY;~~
- ~~3. COLLECTION METHODS EMPLOYED;~~
- ~~4. THE DISTANCE TRAVELED TO CONSOLIDATION OR TRANSFER FACILITIES, MATERIALS RECYCLING FACILITIES, REUSE FACILITIES, COMPOSTING FACILITIES, OR RESPONSIBLE END MARKETS;~~
- ~~5. OTHER FACTORS THAT MAY CONTRIBUTE TO REGIONAL OR JURISDICTIONAL COST DIFFERENCES;~~
- ~~6. THE PROPORTION OF COVERED COMPOSTABLE MATERIALS WITHIN ALL SOURCE-SEPARATED COMPOSTABLE MATERIALS COLLECTED OR MANAGED THROUGH COMPOSTING; AND~~
- ~~7. THE GENERAL QUALITY OF COVERED MATERIALS RECYCLED OR COMPOSTED BY A SERVICE PROVIDER;~~

(II) A FIXED AMOUNT FOR EACH TON OF COVERED MATERIAL RECYCLED OR COMPOSTED BY A SERVICE PROVIDER IN THE PREVIOUS CALENDAR YEAR BASED ON:

1. THE AVERAGE COSTS ASSOCIATED WITH THE TRANSPORTATION AND PROCESSING, FROM A CENTRAL LOCATION WITHIN A POLITICAL SUBDIVISION, OF COLLECTED COVERED MATERIAL FROM THE POLITICAL SUBDIVISION TO A MATERIALS RECYCLING FACILITY OR COMPOSTING FACILITY;

2. THE PROCESSING OF, AND REMOVAL OF CONTAMINATION FROM, COVERED MATERIALS BY A MATERIALS RECYCLING FACILITY OR COMPOSTING FACILITY;

3. THE RECYCLING OR COMPOSTING OF COVERED MATERIALS LESS THE AVERAGE FAIR MARKET VALUE FOR THAT COVERED MATERIAL BASED ON THE MARKET INDICES FOR THE REGION, UPDATED MONTHLY;

4. COSTS ASSOCIATED WITH THE MANAGEMENT OF CONTAMINATED MATERIALS REMOVED FROM THE COLLECTED COVERED MATERIALS; AND

5. THE PROPORTION OF COVERED COMPOSTABLE MATERIALS WITHIN ALL SOURCE-SEPARATED COMPOSTABLE MATERIALS COLLECTED OR MANAGED THROUGH COMPOSTING;

(III) AN ADDITIONAL FIXED AMOUNT PER TON, IN EXCESS OF THE RATE PROVIDED UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH, FOR EACH COVERED MATERIAL TYPE NOT LISTED UNDER § 9-2508 OF THIS SUBTITLE THAT WAS RECYCLED OR COMPOSTED BY A SERVICE PROVIDER IN THE PREVIOUS CALENDAR YEAR, LESS THE AVERAGE FAIR MARKET VALUE FOR THE COVERED MATERIAL BASED ON THE MARKET INDICES FOR THE REGION, UPDATED MONTHLY;

(IV) A FIXED AMOUNT FOR EACH TON OF MIXED RECYCLING THAT IS MANAGED THROUGH A PROCESS THAT INCLUDES PERCENTAGES OF COVERED MATERIALS LISTED UNDER § 9-2508 OF THIS SUBTITLE AND ADDITIONAL COVERED MATERIALS, PRORATED FOR THE VALUES IN ITEMS 1 AND 2 OF SUBPARAGRAPH (II) OF THIS PARAGRAPH, BASED ON THE MOST RECENT WASTE CHARACTERIZATION FOR MIXED RECYCLING TON AVERAGES;

(V) A FIXED AMOUNT, BASED ON POPULATION SERVED, FOR ADMINISTRATIVE COSTS OF SERVICE PROVIDERS, INCLUDING EDUCATION, PUBLIC AWARENESS CAMPAIGNS, AND OUTREACH PROGRAM COSTS AS APPLICABLE; AND

(VI) A FIXED AMOUNT FOR THE COST OF MANAGING COVERED MATERIALS CAPABLE OF REFILL OR REUSABLE COVERED MATERIALS AND FOR THE COSTS ASSOCIATED WITH COLLECTION, CLEANING, SANITATION, DISTRIBUTION, AND MANAGEMENT OF CONTAMINATION.

(3) (I) BEFORE ESTABLISHING THE FEE STRUCTURE FOR PARTICIPATING PRODUCERS UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION, THE PRODUCER RESPONSIBILITY ORGANIZATION SHALL:

- 1. PUBLISH A PROPOSED FEE ON ITS WEBSITE; AND**
- 2. ALLOW 90 CALENDAR DAYS FOR PUBLIC COMMENT.**

(II) THE FEE STRUCTURE ESTABLISHED UNDER PARAGRAPH (1)(III) OF THIS SUBSECTION SHALL BE VARIABLE BASED ON:

1. COSTS ASSOCIATED WITH TRANSPORTING, COLLECTING, AND PROCESSING ~~PACKAGING~~ COVERED MATERIALS;

2. AN ECO-MODULATION OF FEES, INCLUDING ESTABLISHING:

A. A HIGHER FEE FOR ~~PACKAGING~~ COVERED MATERIALS ~~WITH LOW RECYCLABILITY OR~~ NOT LISTED UNDER § 9-2508 OF THIS SUBTITLE OR WITH LOW RECYCLED CONTENT; AND

B. A DISCOUNTED FEE FOR ~~PACKAGING~~ COVERED MATERIALS ~~WITH HIGH RECYCLABILITY OR~~ LISTED UNDER § 9-2508 OF THIS SUBTITLE OR WITH HIGH RECYCLED CONTENT; AND

3. ANY OTHER FACTOR, AS DETERMINED BY THE DEPARTMENT.

(4) (I) A PRODUCER RESPONSIBILITY ORGANIZATION SHALL RETAIN ANY FEE COLLECTED UNDER THIS SUBSECTION IN ITS OWN ACCOUNT.

(II) THE DEPARTMENT MAY REQUEST AT ANY TIME AN AUDIT OF THE FINANCIAL RECORDS OF A PRODUCER RESPONSIBILITY ORGANIZATION.

(5) (I) A SERVICE PROVIDER SHALL RETAIN ALL REVENUE FROM THE SALE OF COVERED MATERIALS.

(II) NOTHING IN THIS SUBTITLE MAY BE CONSTRUED TO RESTRICT A SERVICE PROVIDER FROM CHARGING A FEE FOR COVERED SERVICES OF COVERED MATERIALS TO THE EXTENT THAT REIMBURSEMENT FROM A PRODUCER RESPONSIBILITY ORGANIZATION DOES NOT COVER ALL COSTS OF SERVICES, INCLUDING:

1. CONTINUED INVESTMENT AND INNOVATION IN OPERATIONS;

2. OPERATING PROFITS; AND

3. RETURNS ON INVESTMENTS REQUIRED BY A SERVICE PROVIDER TO PROVIDE SUSTAINABILITY OF THE SERVICES.

(F) THE FUNDING THAT WILL BE USED FOR IMPROVING REUSE, ~~ORGANICS RECYCLING~~ COMPOSTING, AND RECYCLING SHALL INCLUDE INVESTMENT IN MARKET DEVELOPMENT AND EXISTING AND FUTURE REUSE, ~~ORGANICS RECYCLING~~ COMPOSTING, AND RECYCLING INFRASTRUCTURE, GIVING PRIORITY TO INVESTMENT IN EXISTING INFRASTRUCTURE, INCLUDING:

(1) INSTALLING OR UPGRADING EQUIPMENT TO IMPROVE THE SORTING OF PACKAGING MATERIALS AT EXISTING SORTING AND PROCESSING FACILITIES;

(2) MITIGATING THE IMPACTS OF PACKAGING MATERIALS ON OTHER COMMODITIES AT EXISTING SORTING AND PROCESSING FACILITIES; AND

(3) CAPITAL EXPENDITURES FOR NEW TECHNOLOGY, EQUIPMENT, AND FACILITIES, BASED ON THE RESULTS OF THE MOST RECENT STATEWIDE RECYCLING NEEDS ASSESSMENT CONDUCTED UNDER CHAPTER 465 OF THE ACTS OF THE GENERAL ASSEMBLY OF 2023 OR § 9-1702.2 OF THIS TITLE.

(G) THE DEPARTMENT SHALL REVIEW:

(1) THE PRODUCER RESPONSIBILITY PLAN REQUIRED UNDER SUBSECTION (B) OF THIS SECTION; AND

(2) THE WORK PRODUCT OF THE INDEPENDENT FINANCIAL AUDITOR DESIGNATED BY THE DEPARTMENT TO EVALUATE THE FINANCING COMPONENT OF THE PRODUCER RESPONSIBILITY PLAN UNDER SUBSECTION (E)(1)(V) OF THIS SECTION.

(H) (1) WITHIN 120 DAYS AFTER RECEIVING A PROPOSED PRODUCER RESPONSIBILITY PLAN, THE DEPARTMENT SHALL APPROVE, APPROVE WITH CONDITIONS, OR REJECT THE PLAN.

(2) IN MAKING A DETERMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL CONSIDER WHETHER:

(I) THE PRODUCER RESPONSIBILITY PLAN COMPLIES WITH THE REQUIREMENTS OF THIS SECTION, INCLUDING WHETHER THE FINANCING METHOD WILL COVER THE COSTS OF IMPLEMENTING THE PLAN; AND

(II) THE PRODUCER RESPONSIBILITY ORGANIZATION ENGAGED SUFFICIENTLY WITH STAKEHOLDERS, INCLUDING LOCAL GOVERNMENTS, IN DEVELOPING THE PLAN.

(3) NOT LATER THAN 60 DAYS AFTER THE DATE A PRODUCER RESPONSIBILITY PLAN IS INITIALLY APPROVED UNDER THIS SECTION, THE ENTITY THAT SUBMITTED THE PLAN SHALL PAY TO THE DEPARTMENT:

(I) THE DEPARTMENT'S COST OF REVIEWING THE PLAN; AND

(II) THE DEPARTMENT'S ESTIMATED COSTS OF ADMINISTERING, OVERSEEING, AND ENFORCING THE PLAN BETWEEN THE INITIAL DATE OF APPROVAL AND THE DATE OF THE INITIAL ANNUAL REPORT REQUIRED UNDER ~~§ 9-2507~~ § 9-2509 OF THIS SUBTITLE.

(I) IMPLEMENTATION OF AN APPROVED PRODUCER RESPONSIBILITY PLAN SHALL BEGIN NOT LATER THAN 6 MONTHS AFTER THE DATE THE PRODUCER RESPONSIBILITY PLAN IS APPROVED BY THE DEPARTMENT.

(J) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION AND SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, AN APPROVED PRODUCER RESPONSIBILITY PLAN SHALL EXPIRE AFTER 5 YEARS.

(2) A PRODUCER RESPONSIBILITY PLAN MAY CONTINUE AFTER 5 YEARS IF IT IS RENEGOTIATED, RENEWED, OR AMENDED AND APPROVED BY THE DEPARTMENT IN ACCORDANCE WITH THIS SUBTITLE.

(3) THE DEPARTMENT MAY RESCIND APPROVAL OF A PRODUCER RESPONSIBILITY PLAN AT ANY TIME FOR GOOD CAUSE.

(4) IF THE DEPARTMENT RESCINDS AN APPROVAL OF A PRODUCER RESPONSIBILITY PLAN UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE

PRODUCER OR, IF APPLICABLE, THE PRODUCER RESPONSIBILITY ORGANIZATION MAY AMEND THE PLAN AND SUBMIT IT TO THE DEPARTMENT FOR APPROVAL IN ACCORDANCE WITH THIS SUBTITLE.

(5) IF, BASED ON THE ANNUAL REPORT SUBMITTED UNDER ~~§ 9-2507~~ § 9-2509 OF THIS SUBTITLE, THE PERFORMANCE GOALS ESTABLISHED UNDER SUBSECTION ~~(C)(3)~~ (C)(1)(III) OF THIS SECTION HAVE NOT BEEN ACHIEVED, THE DEPARTMENT MAY:

(I) REQUIRE THAT A PRODUCER OR PRODUCER RESPONSIBILITY ORGANIZATION AMEND THE PRODUCER RESPONSIBILITY PLAN; AND

(II) IMPOSE AN ADMINISTRATIVE PENALTY ON A PRODUCER OR PRODUCER RESPONSIBILITY ORGANIZATION IN ACCORDANCE WITH ~~§ 9-2510~~ § 9-2512 OF THIS SUBTITLE.

(6) IF THE DEPARTMENT REQUIRES A PRODUCER OR PRODUCER RESPONSIBILITY ORGANIZATION TO AMEND A PRODUCER RESPONSIBILITY PLAN UNDER PARAGRAPH (5) OF THIS SUBSECTION, THE PRODUCER OR PRODUCER RESPONSIBILITY ORGANIZATION SHALL COVER THE COST OF THE DEPARTMENT'S REVIEW AND SUPPLEMENTAL WORK ON THE PLAN.

9-2506.

(A) IN ACCORDANCE WITH THE REQUIREMENTS OF A PRODUCER RESPONSIBILITY ORGANIZATION, AS ESTABLISHED IN AN APPROVED PRODUCER RESPONSIBILITY PLAN ON FILE WITH THE DEPARTMENT, AND ANY OTHER REQUIREMENT ADOPTED BY THE DEPARTMENT, A ~~LOCAL GOVERNMENT SERVICE PROVIDER~~ MAY REQUEST REIMBURSEMENT FROM A PRODUCER RESPONSIBILITY ORGANIZATION FOR COSTS ASSOCIATED WITH COLLECTING, TRANSPORTING, AND PROCESSING ~~PACKAGING COVERED~~ COVERED MATERIALS THAT ARE IDENTIFIED UNDER THE PLAN, INCLUDING COSTS ASSOCIATED WITH RECYCLING SERVICES FOR ~~PUBLIC PLACES AND PUBLIC HOUSING~~ COVERED ENTITIES.

(B) (1) IF MULTIPLE PRODUCER RESPONSIBILITY ORGANIZATIONS REGISTER APPROVED PRODUCER RESPONSIBILITY PLANS WITH THE DEPARTMENT IN ACCORDANCE WITH THIS SUBTITLE, THE PRODUCER RESPONSIBILITY ORGANIZATIONS SHALL COORDINATE REIMBURSEMENT REQUESTED UNDER THIS SECTION.

(2) MULTIPLE PRODUCER RESPONSIBILITY ORGANIZATIONS MAY ESTABLISH A THIRD-PARTY ENTITY TO COORDINATE REIMBURSEMENT IN ACCORDANCE WITH THIS SUBSECTION.

(C) THIS SECTION DOES NOT AUTHORIZE A ~~LOCAL GOVERNMENT SERVICE PROVIDER~~ TO REQUEST REIMBURSEMENT FROM A PRODUCER RESPONSIBILITY ORGANIZATION FOR COSTS ASSOCIATED WITH COMPOSTING MATERIALS THAT ARE NOT ~~PACKAGING COVERED~~ MATERIALS, INCLUDING FOOD WASTE AND OTHER ORGANIC MATERIALS.

9-2507.

(A) ON OR BEFORE JANUARY 1, 2029, AND EACH JANUARY 1 THEREAFTER, A SERVICE PROVIDER SEEKING REIMBURSEMENT FOR SERVICES PROVIDED UNDER AN APPROVED PRODUCER RESPONSIBILITY PLAN UNDER § 9-2505 OF THIS SUBTITLE SHALL REGISTER WITH THE DEPARTMENT BY SUBMITTING THE FOLLOWING INFORMATION:

(1) THE CONTACT INFORMATION FOR AN INDIVIDUAL REPRESENTING THE SERVICE PROVIDER;

(2) THE ADDRESS OF THE SERVICE PROVIDER; AND

(3) (I) IF APPLICABLE TO THE SERVICES PROVIDED, A REPORT OF THE TOTAL AMOUNT BILLED FOR COLLECTION FOR COVERED ENTITIES, PROCESSING SERVICES, AND TRANSFER STATION OPERATIONS PROVIDED DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR.

(II) IF POSSIBLE, VALUES UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE DISAGGREGATED BY WHETHER THE VALUE IS FOR COLLECTION, PROCESSING, OR TRANSFER.

(B) A SERVICE PROVIDER RECEIVING REIMBURSEMENT OR FUNDING UNDER AN APPROVED PRODUCER RESPONSIBILITY PLAN SHALL:

(1) AS APPLICABLE TO THE SERVICES OFFERED BY AND SERVICE AREA OF THE SERVICE PROVIDER, PROVIDE COVERED SERVICES FOR:

(I) COVERED MATERIALS INCLUDED ON THE LISTS ESTABLISHED UNDER § 9-2508 OF THIS SUBTITLE;

(II) A REFILL SYSTEM; OR

(III) REUSABLE COVERED MATERIALS;

(2) REGISTER WITH THE DEPARTMENT UNDER SUBSECTION (A) OF THIS SECTION;

(3) SUBMIT INVOICES TO THE PRODUCER RESPONSIBILITY ORGANIZATION FOR REIMBURSEMENT FOR SERVICES RENDERED, AS PROVIDED UNDER AN APPROVED PRODUCER RESPONSIBILITY PLAN;

(4) MEET PERFORMANCE STANDARDS ESTABLISHED IN AN APPROVED PRODUCER RESPONSIBILITY PLAN UNDER § 9-2505 OF THIS SUBTITLE;

(5) ENSURE THAT COVERED MATERIALS ARE SENT TO RESPONSIBLE END MARKETS;

(6) PROVIDE DOCUMENTATION TO THE PRODUCER RESPONSIBILITY ORGANIZATION ON THE AMOUNTS, COVERED MATERIAL TYPES, AND WEIGHTS OF COVERED MATERIALS BY COVERED SERVICE METHOD;

(7) DISPLAY THE SERVICE PROVIDER'S PRICE, LESS THE REIMBURSEMENT FROM THE PRODUCER RESPONSIBILITY ORGANIZATION AS DETERMINED UNDER § 9-2505 OF THIS SUBTITLE WHEN INVOICING CUSTOMERS; AND

(8) OTHERWISE COMPLY WITH ALL OTHER APPLICABLE REQUIREMENTS OF THIS SUBTITLE.

(C) (1) A SERVICE PROVIDER MAY DESIGNATE AS CONFIDENTIAL ANY PROPRIETARY INFORMATION PROVIDED TO:

(I) THE DEPARTMENT UNDER THIS SECTION; OR

(II) A PERSON DETERMINING REIMBURSEMENT RATES UNDER § 9-2505 OF THIS SUBTITLE.

(2) INFORMATION DESIGNATED AS CONFIDENTIAL UNDER THIS SUBSECTION IS NOT SUBJECT TO DISCLOSURE UNDER TITLE 4 OF THE GENERAL PROVISIONS ARTICLE (THE MARYLAND PUBLIC INFORMATION ACT), EXCEPT THAT THE INFORMATION MAY BE DISCLOSED AS SUMMARIZED OR AGGREGATED DATA IF DOING SO DOES NOT DIRECTLY OR INDIRECTLY DISCLOSE THE PROPRIETARY INFORMATION OF ANY SPECIFIC FACILITY.

9-2508.

(A) (1) ON OR BEFORE JULY 1, 2027, THE DEPARTMENT SHALL DEVELOP A STATEWIDE LIST OF COVERED MATERIALS DETERMINED TO BE RECYCLABLE OR COMPOSTABLE THROUGH CURBSIDE RECYCLING PROGRAMS.

(2) COVERED MATERIALS IN THE LIST DEVELOPED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE COLLECTED:

(I) AT AN OPTIMAL LEVEL OF SERVICE AND CONVENIENCE FOR COVERED ENTITIES; AND

(II) AT A MINIMUM, WHEREVER COLLECTION SERVICES FOR MIXED MUNICIPAL SOLID WASTE ARE AVAILABLE.

(B) THE DEPARTMENT SHALL DEVELOP THE LIST UNDER SUBSECTION (A) OF THIS SECTION IN CONSULTATION WITH:

(1) THE ADVISORY COUNCIL;

(2) PRODUCER RESPONSIBILITY ORGANIZATIONS;

(3) SERVICE PROVIDERS;

(4) LOCAL GOVERNMENTS; AND

(5) OTHER INTERESTED PARTIES.

(C) IN DEVELOPING THE LIST UNDER SUBSECTION (A) OF THIS SECTION, THE DEPARTMENT MAY CONSIDER THE FOLLOWING CRITERIA:

(1) CURRENT AVAILABILITY OF RECYCLING AND COMPOSTING COLLECTION SERVICES;

(2) RECYCLING AND COMPOSTING PROCESSING INFRASTRUCTURE;

(3) CAPACITY AND TECHNOLOGY FOR SORTING COVERED MATERIALS;

(4) WHETHER A COVERED MATERIAL IS:

(I) OF A TYPE AND FORM THAT IS REGULARLY SORTED AND AGGREGATED INTO DEFINED STREAMS FOR RECYCLING PROCESSES; OR

(II) INCLUDED IN A SPECIFICATION OF THE INSTITUTE OF SCRAP RECYCLING INDUSTRIES, OR A SUCCESSOR ORGANIZATION;

(5) AVAILABILITY OF RESPONSIBLE END MARKETS;

(6) PRESENCE AND AMOUNT OF PROCESSING RESIDUALS, CONTAMINATION, AND TOXIC SUBSTANCES;

(7) QUANTITY OF COVERED MATERIAL ESTIMATED TO BE AVAILABLE AND RECOVERABLE;

(8) PROJECTED FUTURE CONDITIONS FOR THE CRITERIA UNDER ITEMS (1) THROUGH (7) OF THIS SUBSECTION; AND

(9) ANY OTHER CRITERIA OR FACTOR, AS DETERMINED BY THE DEPARTMENT.

(D) (1) THE DEPARTMENT MAY AMEND A LIST COMPLETED UNDER THIS SECTION AT ANY TIME.

(2) (I) THE DEPARTMENT SHALL PROVIDE AN AMENDED LIST UNDER THIS SUBSECTION TO PRODUCER RESPONSIBILITY ORGANIZATIONS WITHIN A REASONABLE AMOUNT OF TIME, DETERMINED BY THE DEPARTMENT, AFTER AMENDING THE LIST.

(II) ON RECEIPT OF AN AMENDED LIST, A PRODUCER RESPONSIBILITY ORGANIZATION SHALL:

1. PROVIDE THE LIST TO SERVICE PROVIDERS AS SOON AS PRACTICABLE AFTER RECEIVING THE AMENDED LIST; AND

2. WORK TO INCORPORATE CHANGES IN RELEVANT SERVICE PROVIDER REIMBURSEMENT RATES WITHIN 1 CALENDAR YEAR.

(E) (1) (I) A PRODUCER MAY REQUEST, ON A FORM PRESCRIBED BY THE DEPARTMENT, THAT THE DEPARTMENT CLASSIFY ONE OR MORE TYPES OF PACKAGING AS AN EXEMPT MATERIAL.

(II) THE DEPARTMENT SHALL SUBMIT A REQUEST RECEIVED UNDER THIS SUBSECTION TO THE ADVISORY COUNCIL FOR REVIEW AND COMMENT BEFORE APPROVING OR DENYING THE REQUEST.

(2) SUBJECT TO PARAGRAPH (1)(II) OF THIS SUBSECTION, THE DEPARTMENT MAY APPROVE THE REQUEST ONLY IF THE DEPARTMENT DETERMINES THAT A SPECIFIC FEDERAL OR STATE HEALTH AND SAFETY

REQUIREMENT PREVENTS THE PACKAGING FROM BEING WASTE REDUCED OR MADE REUSABLE, RECYCLABLE, OR COMPOSTABLE.

(3) WITHIN 120 DAYS AFTER THE DATE ON WHICH THE DEPARTMENT RECEIVES A REQUEST UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT SHALL:

(I) REVIEW AND APPROVE OR DENY THE REQUEST; OR

(II) REQUEST ADDITIONAL INFORMATION FROM THE PRODUCER.

(4) THE DEPARTMENT SHALL PUBLISH AND UPDATE AS NECESSARY ON THE DEPARTMENT'S WEBSITE A LIST OF MATERIALS EXEMPTED BY REQUEST UNDER THIS SUBSECTION.

(5) (I) AN EXEMPTION APPROVED PER A REQUEST UNDER THIS SUBSECTION SHALL EXPIRE 2 YEARS AFTER THE DATE ON WHICH THE DEPARTMENT APPROVES THE REQUEST.

(II) A PRODUCER MAY FILE A SUBSEQUENT REQUEST THAT THE DEPARTMENT CLASSIFY ONE OR MORE TYPES OF PACKAGING AS AN EXEMPT MATERIAL AFTER THE EXPIRATION OF THE CLASSIFICATION UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

~~9-2507.~~ 9-2509.

(A) BEGINNING ~~MARCH 1, 2028~~ JULY 1, 2029, EACH PRODUCER OR PRODUCER RESPONSIBILITY ORGANIZATION THAT HAS AN APPROVED PRODUCER RESPONSIBILITY PLAN ON FILE WITH THE DEPARTMENT SHALL REPORT ANNUALLY TO THE DEPARTMENT ON THE PROGRESS TOWARD MEETING PLAN REQUIREMENTS AND GOALS FOR THE IMMEDIATELY PRECEDING CALENDAR YEAR.

(B) THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION SHALL INCLUDE:

(1) A DETAILED DESCRIPTION OF THE REIMBURSEMENT METHODS USED FOR COLLECTING, TRANSPORTING, AND PROCESSING ~~PACKAGING~~ COVERED MATERIALS;

(2) (I) THE STATUS ON ACHIEVING THE PERFORMANCE GOALS ESTABLISHED UNDER ~~§ 9-2505(C)(3)~~ § 9-2505(C)(1)(III) OF THIS SUBTITLE; AND

(II) IF THE GOALS HAVE NOT BEEN ACHIEVED, A DESCRIPTION OF THE ACTIONS PROPOSED TO ACHIEVE THE GOALS;

(3) THE AMOUNT OF EACH ~~PACKAGING~~ COVERED MATERIAL TYPE COLLECTED IN THE STATE, INCLUDING THE METHOD OF DISPOSITION OF EACH PACKAGING MATERIAL TYPE;

(4) THE TOTAL COST OF IMPLEMENTING THE PLAN, AS DETERMINED BY AN INDEPENDENT FINANCIAL AUDITOR, INCLUDING:

(I) A COPY OF THE WORK PRODUCT OF THE INDEPENDENT FINANCIAL AUDITOR; AND

(II) FINANCIAL STATEMENTS DETAILING ALL PAYMENTS RECEIVED AND ISSUED BY THE PRODUCERS COVERED UNDER THE APPROVED PLAN;

(5) SAMPLES OF ALL EDUCATIONAL MATERIALS PROVIDED TO CONSUMERS OR OTHER ENTITIES;

(6) A DETAILED DESCRIPTION OF THE ACTIONS TAKEN AND AN EVALUATION OF THE METHODS USED TO DISSEMINATE EDUCATIONAL MATERIALS, INCLUDING RECOMMENDATIONS, IF ANY, FOR HOW THE EDUCATIONAL COMPONENT OF THE PLAN CAN BE IMPROVED;

(7) A DETAILED DESCRIPTION OF INVESTMENTS MADE IN MARKET DEVELOPMENT AND FOR IMPROVING REUSE, ~~ORGANICS RECYCLING~~ COMPOSTING, AND RECYCLING INFRASTRUCTURE;

(8) PROOF OF A THIRD-PARTY AUDIT OF:

(I) THE REDUCTION IN ~~PACKAGING~~ COVERED MATERIALS REPORTED;

(II) THE DATA USED TO DETERMINE THE STATUS OF ACHIEVING PERFORMANCE GOALS;

(III) THE AMOUNT OF EACH ~~PACKAGING~~ COVERED MATERIAL TYPE COLLECTED IN THE STATE; AND

(IV) THE OVERALL REDEMPTION RATE AND RECYCLING RATE OF BEVERAGE CONTAINERS IN THE STATE; AND

(9) ANY OTHER INFORMATION AS REQUIRED BY THE DEPARTMENT.

(C) WHEN PROVIDING THE DEPARTMENT WITH THE ANNUAL REPORT REQUIRED UNDER THIS SECTION, A PRODUCER OR PRODUCER RESPONSIBILITY ORGANIZATION SHALL PAY TO THE DEPARTMENT THE DEPARTMENT'S ESTIMATED COSTS OF ADMINISTERING, OVERSEEING, AND ENFORCING THE PLAN FOR THE 1 YEAR IMMEDIATELY FOLLOWING THE ANNUAL REPORT.

(D) FINANCIAL, PRODUCTION, OR SALES DATA REPORTED TO THE DEPARTMENT BY A PRODUCER OR PRODUCER RESPONSIBILITY ORGANIZATION SHALL BE KEPT CONFIDENTIAL BY THE DEPARTMENT AND MAY NOT BE SUBJECT TO PUBLIC INSPECTION.

(E) SUBJECT TO SUBSECTION (D) OF THIS SECTION, THE REPORT SHALL BE POSTED ON THE WEBSITE OF THE DEPARTMENT AND THE PRODUCER OR PRODUCER RESPONSIBILITY ORGANIZATION.

~~9-2508.~~ 9-2510.

ANY PERSON PARTICIPATING IN A PRODUCER RESPONSIBILITY PLAN IN COMPLIANCE WITH THIS SUBTITLE IS IMMUNE FROM LIABILITY UNDER STATE LAW RELATING TO ANTITRUST AND RESTRAINT OF TRADE FOR ANY COOPERATED ACTIVITIES ARISING OUT OF THE RECYCLING, REUSE, AND DISPOSAL OF ~~PACKAGING~~ COVERED MATERIALS.

~~9-2509.~~ 9-2511.

(A) THE DEPARTMENT SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

(B) REGULATIONS ADOPTED UNDER THIS SECTION:

(1) MAY ESTABLISH CRITERIA REGARDING PROVIDING BENEFITS TO THE ENVIRONMENT AND MINIMIZING RISKS TO PUBLIC HEALTH AND WORKER HEALTH AND SAFETY; AND

(2) SHALL ESTABLISH, OR REQUIRE A PRODUCER RESPONSIBILITY PLAN TO ESTABLISH, A PROCESS FOR VALIDATING RESPONSIBLE END MARKETS.

~~9-2510.~~ 9-2512.

(A) EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION, THE PROVISIONS OF §§ 9-334 THROUGH 9-344 OF THIS TITLE APPLY TO ENFORCE VIOLATIONS OF:

- (1) THIS SUBTITLE;
- (2) ANY REGULATION ADOPTED UNDER THIS SUBTITLE; OR
- (3) ANY ORDER ISSUED UNDER THIS SUBTITLE.

(B) (1) A PRODUCER OR PRODUCER RESPONSIBILITY ORGANIZATION THAT VIOLATES THIS SUBTITLE IS SUBJECT TO:

- (I) FOR A FIRST VIOLATION, AN ADMINISTRATIVE PENALTY OF \$5,000;
- (II) FOR A SECOND VIOLATION, AN ADMINISTRATIVE PENALTY OF \$10,000; AND
- (III) FOR A THIRD OR SUBSEQUENT VIOLATION, A CIVIL PENALTY OF \$20,000.

(2) A PENALTY MAY NOT BE IMPOSED ON A PRODUCER UNDER THIS SECTION UNLESS:

- (I) THE DEPARTMENT FIRST ISSUES A WRITTEN NOTICE OF VIOLATION TO THE PRODUCER; AND
- (II) THE VIOLATION IS NOT CORRECTED WITHIN 60 DAYS AFTER RECEIPT OF THE WRITTEN NOTICE.

(3) AFTER THE 60-DAY PERIOD SPECIFIED UNDER PARAGRAPH (2) OF THIS SUBSECTION, EACH DAY THAT A VIOLATION CONTINUES IS A SEPARATE VIOLATION.

(C) IF, BASED ON THE ANNUAL REPORT SUBMITTED UNDER ~~§ 9-2507~~ § 9-2509 OF THIS SUBTITLE, THE PERFORMANCE GOALS ESTABLISHED UNDER ~~§ 9-2505(c)(3)~~ § 9-2505(C)(1)(III) OF THIS SUBTITLE HAVE NOT BEEN ACHIEVED, THE DEPARTMENT MAY IMPOSE AN ADMINISTRATIVE PENALTY, NOT TO EXCEED \$250,000, ON THE PRODUCER RESPONSIBILITY ORGANIZATION.

(D) ANY PENALTY COLLECTED BY THE DEPARTMENT UNDER THIS SECTION SHALL BE PAID INTO THE STATE RECYCLING TRUST FUND ESTABLISHED UNDER § 9-1707 OF THIS TITLE.

SECTION 2. AND BE IT FURTHER ENACTED, That, ~~on or before December 1, 2025, each local government in the State shall file a feasibility plan with the Department of the Environment that prioritizes the sale of recycled packaging materials back to~~

~~manufacturers that have a manufacturing facility in the State~~ if a beverage container deposit return program is enacted in the State, the Department of the Environment shall:

(1) coordinate the implementation of the beverage container deposit return program in a manner that ensures compatibility with producer responsibility plans and related provisions of law as enacted by Section 1 of this Act; and

(2) ensure that:

(i) materials covered in the beverage container deposit program are exempt from producer responsibility plans; or

(ii) related financial obligations are reduced.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June 1, 2025.

Approved by the Governor, May 13, 2025.